

Praxis Almæ Curiae Cancellariæ :

The Second Part.

A
COLLECTION
O F
PRECEDENTS

B Y

Bill and Answer, Plea and
Demurrer,

In Causes of the greatest Moment (wherein
Equity hath been allowed) which have
been Commenced in the

High Court of Chancery,

For more than 30. Years last past.

Containing Additional Bills, Pleas, Answers
and Demurrers; As also, the Pleas, Answers
and Demurrers to the Bills in the First Part
of the Collection.

To which is Prefixt an INTRODUCTION,
shewing the Original and Antiquity of that Court; with a
Description of the Offices of the Lord High Chancellor of
England, or Lord Keeper of the Great Seal, Master of the
Rolls, Masters in Chancery, and other Officers of the Court;
Likewise, of the Privileges of the Clerks, Officers and Mini-
sters of the Court, and other Matters relating to the Practice
of the same.

L O N D O N, Printed for *E. Wilkinson*, and sold by her and
A. Roper at the *Black Boy* overgainst *St. Dunstan's*
Church in *Fleetstreet*. 1695.

Radcliff 1888

TO THE
READER.

TO Compleat the Collection
you will find in this Second
Part the Pleas, Answers and De-
murrers which belong to the Bills of
the First Volume. There are also
inserted in this Part divers Addi-
tional Bills, with the Answers, Pleas,
Replications and Demurrers there-
upon, of great Concernment, and
extraordinarily well drawn, as
will occur upon perusal; of which
the Interpleadings of the Lady

A 2

Dowager

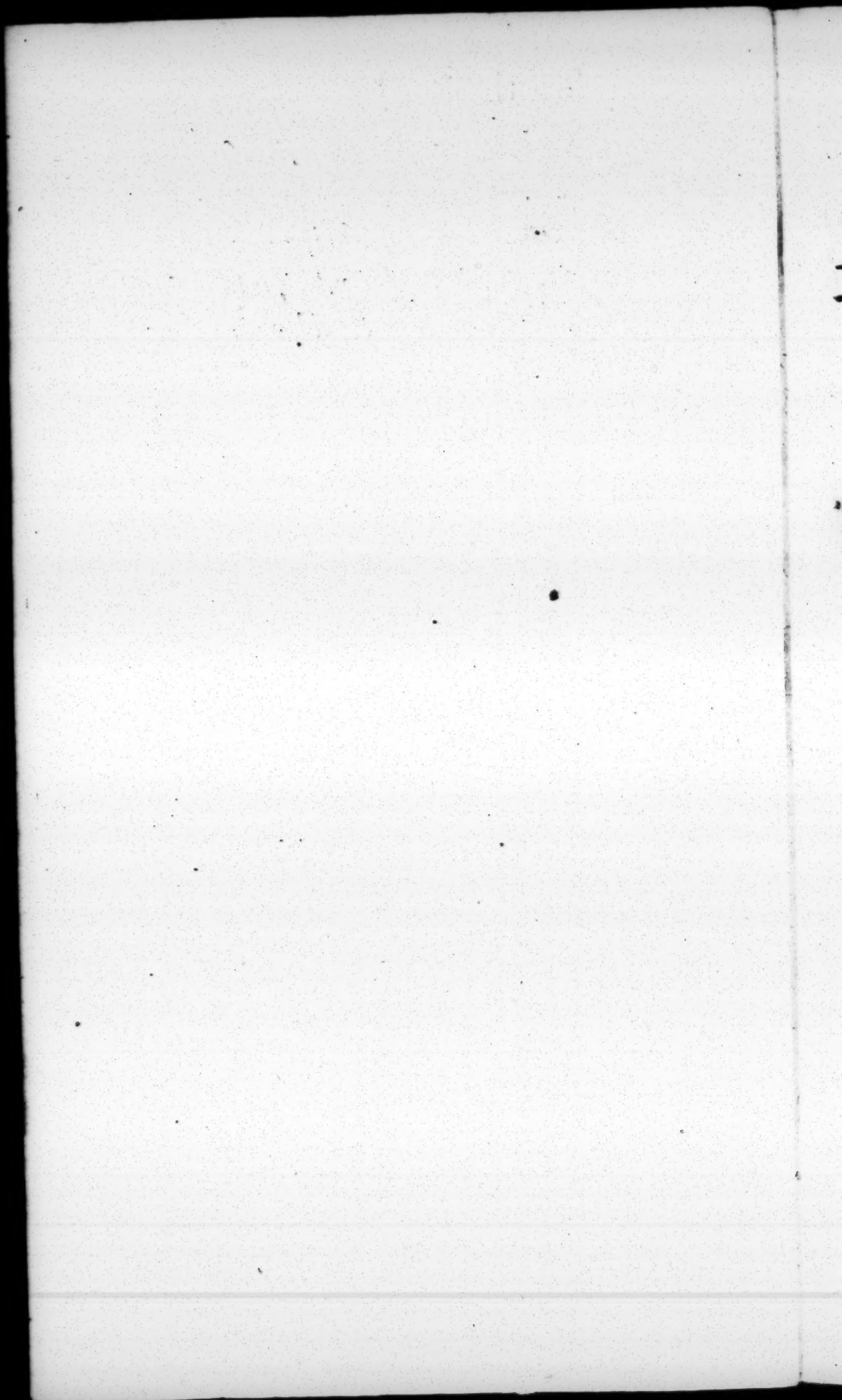
To the Reader.

*Dowager Stawel, with divers Persons of several and distinct Interests, after her Lord's decease concerning her Marriage Portion; with the Company of Stationer's Bill against a Notorious Land Pirate of their Copies, are not the least worthy of Note and Consideration. Besides the Bill to supersede a Commission granted against One upon the Statutes against Bankrupts, who is not within the true meaning of any of those Statutes; as also the Exceptions to a Decree, made on an Inquisition mentioned therein, taken by Commissioners, pursuant to the Statute of 43 Eliz. concerning Charitable Uses, may be very well esteemed of the like Curiosity, as being wholly new to the Press, and worthy of the Reader's Observation and particular Remarks; as are also, the
other*

To the Reader.

other Exceptions made to the several Particular Answers in this Collection, upon great Advice, and Deliberation, and profound Judgment and Skill in the Practice of this Court.

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T H E

INTRODUCTION.

SECT. I.

Of the Original, and Antiquity of
the Court of Chancery.

TH E Kings of England have, ab
Origine, instituted two distinct
kinds of Judicatures within this
Realm, for deciding Controversies be-
tween their Subjects; One of Justice, where-
in the strict Letter of the Law is observed,
and the Other of Equity, whereby the
Rigour of the Law is qualified.

The later of these, being the Court of
Chancery, some have been of Opinion was
not Originally intended to take Cognisance
of Matters of Equity, but only to Seal and
Inroll

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Inroll the Kings Patents and Commissions, and to Issue out in his Name (He being the Fountain of Justice) Writs Remedial to his Subjects, for the Recovery of some Estate Real or Personal, or for the Remedy of some Grievance ; But that afterwards to mitigate the Severity of the Common Law, it was thought necessary to add thereunto a Power to determine Causes according to Equity and good Conscience.

The Civilians do labour to prove, that this Court had its Original from them ; alledging for Argument, that the Chancery must necessarily be the most Ancient Court of this Realm, because from thence all Original Writs and Commissions do come upon which the Courts of Common Law do ground their Proceedings : This Court therefore (say they) in Time, and Nature was the first, and could not have its Rise, or receive Influence from any other Court of Law within this Kingdom, but from some other Court elsewhere, of greater Antiquity than the Common Law within this Realm. Besides (continue they) Cancellarius and Cancellaria are Latin words that are found to have been used in the Civil Law, before the Common Law of England had its being ; Cancellarius then signifying such an Assistant to the Sovereign Prince, as for his Wisdom and Knowledge

ledge

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ledge in the Laws was joined unto him; and was so called because he did sit *intra eosdem Cancellos cum Principe*, and in his stead.

But yet we read not this word *Cancellarius* in the ancient Times of the Civil Law that was practised whilst their Commonwealth stood uninvaded by Perpetual Dictators, and Emperors; nor till about three or four hundred years after, about which times, and before, this Realm being wholly under the Roman Dominion, (as the greatest part of the then known World also was) no doubt, their Language, but especially their Laws, were here received.

And we read that *Trebacius*, a Civilian of great Antiquity, often quoted in the Pandects, who lived in the Time of *Julius Cæsar*, (above forty years before Christ) did inhabit for some time in this Island of Britaign. And so did afterwards the very Oracle of the Law, *Emilius Paulus Papinianus*, who professed the Civil Law, and kept his Tribunal Seat of *Prætorship* at the City of York.

Sir John Fortescue, Knight, in the Reign of King Henry the Sixth, Instructing Prince Henry in the knowledge of the Laws of this Kingdom, saith, That in all the Times of those several Nations that

Reigned here, *viz.* the *Romans, Saxons, Danes* and *Normans*, this Realm was still Ruled with the same Customs it is now Governed withall. Neither are the *Roman* Civil Laws by so long Continuance of Ancient Times, confirmed; nor yet the Laws of the *Venetians*, which above all other, are reported to be of most Antiquity, forasmuch as their Island in the beginning of the *Britons* was not then Inhabited, as *Rome* then also unbuilt; Neither the Laws of any *Paynim* Nation in the World, are of so Old and Ancient years. *Mulcaster's* Translation of Sir *John Fortescue's* Treatise *de laudibus Legum Angliæ*.

To the same effect Sir *Ed. Coke* expresseth himself in the several Prefaces to his 3d. 6th. 8th. and 9th. Books of Reports; in which last he citeth the most Ancient Treatises of the Laws and Usages of this Kingdom, whereby it had been Governed above 1100 years past, beginning with the Diversity of Courts, and particularly the Court of Chancery; wherein he saith, That it was Ordained, that every one upon Complaint should have out of the King's Court of Chancery a Writ Remedial, without any difficulty, &c.

In the time of King *Alfred* there was no Writ of Grace, but all Writs were
Re-

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Remedial, as of Duty, by virtue of an Oath, &c.

The Writs of Grace are Subpena, Certiorari, &c.

All the Judges of England, 9 Ed. 4. did unanimously Affirm, that the Court of Chancery was the King's Court, and had been time out of mind, so that it was impossible to Trace its Original.

And Sir Ed. Coke in the Preface to his third Book of Reports, fol. 2. b. proveth out of the Case in 26 Ass. pl. 24 That the Court of Chancery hath been beyond Time of Memory.

And Egerton, Lord Chancellor, in his Argument in the Case of Post Nati, fol. 39. calleth the Chancery Officina Justitiæ & Æquitatis, where all Origina' Writs (which in ancient Times were the grounds of all Suits) were devised and framed.

Sect. 2. Of the Lord Chancellor, or Lord Keeper of the Great Seal of England, his Precedency, Office and Power.

THE Lord Chancellor hath no Commission by Letters Patents, nor is he Created by Writ, as all other Judges; but receives his Authority only by the Delivery unto him of the Great Seal of England by the King himself.

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When he hath received the Seal from the King, there is an Entry made, upon a Close Roll in the Court of Chancery, what day, and in whose presence the Great Seal was delivered; and other Grant or Patent for that Office there ought not to be, for that the Person to whom the Office is committed hath the keeping of the Great Seal in his own hand, Cambden 180.

The Lord Chancellor holdeth his Office but at will, durante beneplacito Regis, Co. lib. 8. fol. 99 b.

The Lord Chancellor of England is called Custos Magni Sigilli by the Statute of 7 Rich. 2. ca. . and by 5 Eliz. cap. 18. it is declared, That the Lord Chancellor and the Lord Keeper of the Great Seal have one Power.

And by the Statute of 30 H. 8. cap. 10. It is Ordained and Enacted, That the Lord Chancellor, being of the Degree of a Baron of the Parliament, or above, shall sit, and be placed on the left side of the Parliament Chamber, on the higher part of the Form of the same side, above all Dukes (except only such as shall happen to be the King's Son, the King's Brother, the King's Uncle, the King's Nephew or Sisters Son) And if any Person which hereafter shall happen to have the said Office of Lord Chancellor, be under the Degree of a Baron,

Baron, by reason whereof he can have no Interest to give any Voice, in such Case he shall sit, and be placed at the uppermost part of the Sacks, in the midst of the Parliament Chamber.

To the Chancellor appertaineth the Constituting of Justices of the Peace, and Quorum by Commission throughout England, saith Mr. Lambert in his Treatise of the Office of a Justice of Peace, lib. 1. cap. 5.

By the Statute of 3 Ed. 6. cap. 1. The Lord Chancellor was wholly restored to his ancient Authority in naming the Custos Rotulorum.

And Fortescue in his Treatise de Laudibus Legum Angliæ, speaking of the Creation of a Judge, saith, That, as often as any place of Judicature is void, the King useth to choose one of the Serjeants at Law, and him by his Letters Patents to Ordain a Justice in that Place; and then the Lord Chancellor of England shall enter into the Court, where the Justice is so lacking, bringing with him those Letters Patents, and sitting in the midst of the Justices, causeth the Serjeant so elect to be brought in, to whom in the open Court he notifieth the King's Pleasure, touching the Office of the Justice then void, and causeth the aforesaid Letters Patents to be openly read. Which done, the Master of the Rolls

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shall read before the same Elect Person the Oath that he shall take, which, when he hath sworn upon the Holy Evangelists, the Lord Chancellor shall deliver unto him the King's Letters aforesaid, and the Lord Chief Justice of the Court shall assign unto him a Place in the same, where he shall then place him, and that Place shall he afterwards keep. Mulcaster's Translation of Fortescue, cap. 51.

Cambden in his Britannia, fol. 180. speaking of the Antiquity and Grandeur of this Court, and the Authority of this Great Officer, citeth the Testimony of an Eminent Author, who lived in the Reign of Henry the Second, in these words, The Dignity of the Lord Chancellor of England is this, He is reputed the Second Person in the Kingdom, and next unto the King; with the one side of the King's Seal (whereof by his Office he hath the keeping) he may sign his own Injunctions; Dispose and Order the King's Chaplains, as he pleaseth; receive and keep all Archbishopricks, Bishopricks and Baronies void, and fallen into the King's Hands; Be present at all the Kings Counsels, and repair thither uncalled; also to see that all Writs, Patents and Commissions be Sealed by his Clerk who carrieth the King's Seal; and that all things,
con-

concerning the Court of Chancery, be directed, and disposed according to his Advice.

The Lord Chancellor of England by the Statute of 22 H. 8. cap. 13. may have three Chaplains, whereof every one may Purchase License or Dispensation; and receive, have and keep two Benefices with Cure of Souls.

To the Chancellors Office, in process of time, great Dignity and Authority have been added by divers Acts of Parliament. Also by the Common Law the Lord Chancellor is acknowledged to have two kinds of Power in him, viz. the one Ordinary, and the other Absolute, Stamf. Prærog. cap. 20. fol. 65.

The Lord Chancellor may hold Plea as well Extra Terminum, as Infra, in Matters concerning the one Jurisdiction, as the other, F. n. b. 261, a. Brook Tit. Jurisdiction, 116.

If the Adjournment of the Term be, yet the Court of Chancery shall not be thereby adjourned, because the Court of Chancery is always open, 4 Ed. 4. 21. For a man may have Process out of this Court at any time, Crompt. Jurisd. of Courts, fol. 42.

Señ. 3. Of the Master of the Rolls, and the rest of the Masters of Chancery.

THE Master of the Rolls is one of the twelve Masters of the Chancery, and the chiefest of them; for by the Statute of 21 H. 8. cap. 13. there ought to be twelve Masters of the Chancery.

The Master of the Rolls is stiled in his Patent thus — Clericus Parvæ Bagæ, Custos Rotulorum, & Custos Domus Conversorum Judæorum; which House is so called, because the Jews in Ancient Times, as they were any of them brought to Christianity, they were bestowed in that House separately from the rest of that Nation in London. And this House, with its Appurtenances, was designed by Edward the Third for the keeping of the Rolls or Records of the Chancery; and therefore at this day it is called the Rolls, Camdens Britannia, fol. 428.

He is called Clerk of the Rolls, Anno 12 Ric. 2. cap. 2. and in Fortescue, cap. 24. and by no Statute Master of the Rolls until 11 H. 7. cap. 18. And yet in the fifteenth Chapter of the same year, he is called Clerk, and as a Clerk he taketh his Oath in open Court; the form whereof was made by Parliament, Anno 18 Ed. 3. as followeth.

You

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You shall swear, That well and faithfully you shall serve our Sovereign Lord the King, and all his People, in the Office of Clerk of the Chancery to which you are intitled ; You shall not assent, nor procure to be done any Fraud to any Mans wrong, nor any thing that toucheth the keeping of the Seal ; And you shall lawfully conceal in Things that touch the King, when you shall be thereunto required, and the Counsel you know touching him you shall conceal, and if you know of the Kings Disherison, perpetual, damage or fraud to be done upon things which touch the Seal, you shall put your lawful Power to redress and amend the same ; and if you cannot do the same, then you shall certify the Chancellor, or others, which may do the same to be amended to your intent. *And for the Clerks of Course shall be added.* And you shall not bring, nor to your knowledge suffer to be brought any Writs, which you make out of the Court, not sealed, thereof to do Execution ; Nor shall record any Attorney by Writ, or without special License, if you have not lawfully examined the Party and Attorney in proper Person. Neither shall deliver any Writ, which shall be of Commandment, to the Examiners, nor to the Seal,

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Seal, before that the same Writ be sent to you by the Commander which thereof hath Power, unless it be to the Chancellor, or to one of the Masters which commanded you to make the Writ; and all the Writs which you shall make you shall deliver them to the Examiners by your own hand, or by your Companion which is sworn to the King, if you your self be out of the Court, because of sickness, or other necessary Cause, so that you cannot do the same; and that no Writ written of another mans hand be delivered to the Examiners under your name as yours, nor no name shall you put upon your Writs but your own, as God you help.

Sir Edw. Coke in the Preface to his Third Book of Reports, fol. 5. saith, That he cannot conceive, that the Master of the Rolls hath a lawful Claim to be a Judge in the Chancery, in the absence of the Lord Chancellor, or Lord Keeper, who is the only Judge of that Court; or by what Authority the Master of the Rolls doth sit, and Determine Causes in the Chappel of the Rolls, as then of late years had been used; unless he be Authorised thereunto by Special Commission under the Great Seal. But much less may any other of the Masters pretend any Authority,

rity, as Judges, in that High Court, without like Special Commission. But the first President and Institution thereof was brought in by Cardinal *Woolsey*, when he was Lord Chancellor of *England*, Anno 29 H. 8.

Some are of Opinion, that the Master of the Rolls is a general Conservator of the Peace by his Office; but he maketh out Process, and taketh Recognisances thereupon, not by any Power incident to his Office, but by Prescription, Lamberts Justice, fol. 12.

The Master of the Rolls hath been for a long time ranked among the greatest Officers and Magistrates of the Realm, as appears by the Statute of 12 Ric. 2. cap. 2. Whereby it is Enacted, that the Chancellor, Treasurer and Keeper of the Privy Seal, the Steward of the King's House, the King's Chamberlain, the Clerk of the Rolls, the Justices of both Benches, the Barons of the Exchequer, and others that should be called to the Naming of Justices of the Peace, Sheriffs, Escheators, Customers, Comptrollers and other Officers, should be sworn to do the same faithfully, and without affection.

It appears by a Proviso in the Statute of 14 H. 8. cap. 8. That the Master of the Rolls hath the giving, and Disposing of the

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the Offices of the Six Clerks in Chancery. But in the Statute made in the fifth and sixth years of the Reign of Edward the Sixth, chap. 16. Intituled, An Act against Buying and Selling of Offices, there is no Saving, Proviso, or Exception for the Master of the Rolls his giving or bestowing the said Offices of the Six Clerks, Co. 3 part fol. 82. in fine.

But Quære, if the said Statutes do not extend to Courts of Equity, as it doth to Courts of Justice, according to the Course of the Common Law; for that it hath been adjudged, That the Register, and all other Officers, and Offices of the Ecclesiastical Courts, are out of the Danger and Provision of this Statute.

Masters of the Chancery.

Bracton in his Fifth Book, treating of Exceptions, cap. 17. fol: 413. Divides Writs into three parts, or Kinds (for the making whereof there were three distinct sorts of Clerks in Chancery) his words are these, Sunt quædam Brevia formata, viz. Originalia, vel de Cursu; quædam Judicialia ex eis sequentia, &c. Quædam Magistralia, quæ nec sunt de Cursu, nec formata, &c.

And

And Flæta, lib. 2. cap. 12. speaking of the Chancellor, and the Masters in Chancery to be his Assistants, saith, Est inter cætera Officium quod dicitur Cancellaria, magnæ Diversitatis, quod viro provide & discreto, &c. debet committi, &c. Cui associantur Clerici honesti & circumspetti, Domino Regi jurati, qui in Legibus & Consuetudinibus Anglicanis Noticiam habeant pleniorẽ; and the Writs which they made were called Brevia Magistralia, because the Clerks which made them were for their knowledge called Magistri Cancellariæ, Masters of the Chancery, as those who did write the (Brevia de Cursu) Writs of Course, were, and yet are called (Cursistarij) Cursifsters, or Cursifers, Co. 8 part fol. 49. a.

And these Masters in Chancery, according to the Lord Chancellor Egerton, in his Book of the Post Nati fol. 39. were grave and ancient Clerks, skilful and long experienced in the Course, and Practice of the Court, formerly called Clerici de prima Forma, and since Magistri Cancellariæ.

*And Polidore Virgil in his ninth Book, saith, That William the Conqueror instituted a College, or Society of Clerks in this Court (being then the Officina Justitiæ of the Realm) for the making of all
manner*

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manner of Writs, which issued out from thence ; among whom our Clerici de prima Forma, now Masters in Chancery, were without doubt, a principal part of that Congregate Body.

And Co. 8 part 49. b. saith, It might be true and probable, that in former times the Court of Chancery was not furnished in so good Order with Clerks, as afterwards,

Omnia fert Tempus pariter rapit —

and that within his Memory the Curfitters Office had been disposed otherwise, than in ancient times ; and that there had been some other Innovations besides.

That the ancient Name of Clerici de prima Forma was forgotten, and that few of them had had that Learning in the Laws of England as was requisite ; and no wonder, for that for many years past, they had been men of another Profession, viz. Clergymen ; and therefore there had been also a long Disuse of those Brevia formata, and that shortly after Edward the First, in whose time the Statute of Westm. 2. cap. 24. was made, which Ordaineth, That quotiescunque evenerit in Cancellaria qd' in uno Casu reperitur Breve, & in consimili Casu, cadente sub eodem

eodem Jure, simili indigent Remedio, concordent Clerici de Cancellaria de Bre-
vi faciendo, &c. By force of which Act
the Writ called Breve de Ingressu in Con-
simili Casu was formed by the Clerks in
Chancery, saith Fitzherbert in his Natura
Brevium, fol. 206. vide Register of Writs,
fol. 131, a. & Fitzh. Nat. Brevium, 24, b.

And this defection and failing of Clerks
in the knowledge of the Common Laws,
and in framing Brevia formata (continues
Sir Edw. Coke ubi supra) obliged the
Judges of other Courts in many things to
give allowance to the ancient Forms of
Writs, and to force the Parties Plaintiffs
to make a Special Count, in Cases when
the Writ doth Warrant the Count in Sub-
stance, Co. 8 part fol. 49, b.

As for Example, The Writ of Assise of
Darreign Presentment was formed in these
words— Quod Advocatus tempore pacis
præsentavit ultimam Personam, quæ mor-
tua est — yet nevertheless the Plaintiff
was allowed to have that Writ, in case the
Parson did Resign, and was alive; and
the Writ supposeth, That the Defendant
did Deforce him from his Advowson, to
which his Ancestor did last present; where-
by he supposeth, that he is in possession of
the said Advowson; and it was allowable,
Fitz. n. b. 31 b.

b

So,

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So, if the Tenant hold by Homage Ancestrel, and is impleaded, he may have a Writ de Warantia Chartæ against his Lord; and the form of the Writ is — Unde Chartam habet, though he have no Deed or Writing to shew, but only his Tenure by Homage Ancestrel, Fitz. n. b. 134. f.

And so if Tenements be let to a Man for half a year, or less; and the Tenant commit Waste, the Writ shall be — Quæ tenet ad Terminum Annorum: But yet he must make a Special Declaration upon the Truth of the Matter, and the Count, saith Fitz. n. b. fol. 60, d. shall not abate the Writ.

The later Name of Masters of the Chancery, they retain at this day, in regard of their Gravity and Wisdom. They retain likewise their ancient Precedency before all other Clerks, and do sit upon the Bench with the Lords Chancellors, or Lords Keepers, as well as when they were Cojudices with them in Matters concerning Form, and then they were allowed Robes out of the King's Wardrobe. And now a Recognizance acknowledged before any of them, and certified under his handwriting, is of that Authority, that it is a Matter of Record, and as effectual as if it had been acknowledged in open Court. Like-
wise

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wise every Defendant in any Bill Exhibited against him in this Court, must make his answer thereunto upon Oath before one of them.

Also all Deeds, or Indentures, which are to be inrolled in Chancery, must be acknowledged before them, Vide Keilway, fol. 4.

Likewise the Lord Chancellor, or Lord Keeper taking advantage of their leisures and opportunities, do refer Matters depending in this Court, which are ready for Hearing, unto their Examinations, which according to their Certificates, are Decreed accordingly; Vide Co. Præfat. in lib. 4. Relation. fol. 2. a. & Stat. 1 Jac. cap. 10.

The Civilians say, That it ought only to belong to them to be Masters of the Chancery, and Assistants to the Lord Chancellor, or Lord Keeper; and Complain as of a wrong done to them, that they are not permitted to give their Judgments in this Court, as the Judges of the Common Law do in Courts of Ordinary Justice. For (say they) the Kings of England having always from time to time taken care to supply the Temporal Courts of this Kingdom, where the Common Law is exercised, with such of the Professors thereof, as are most Eminent for their Learning, and Knowledge therein; so to the Court of Chancery they did also use to Assign the Professors of

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the Civil Law, in respect of the many Titles concerning Equity, which they have in their Law Books. For whatsoever is called Jus Prætorium, or Jus Edilitium, by the Civilians in the Titles of their Law Books, is altogether matter of Equity; so that they may seem best able for their skill in those Titles, of which no other Law hath the like, to assist the Lord Chancellor, or Lord Keeper in matters of Conscience; who tho he be a Person, for the most part, chosen, by the King himself, out of the rest of the Judges, and Sages of the Law of this Nation, for his great Learning, Integrity, and other Abilities, so that he may be thought, for his great Wisdom in all things touching that Office, able to Direct himself; yet, (because it is Divinitatis potius quam Humanitatis Omnium veram habere memoriam, & in nullo errare, as one well Observes) it was providently done by Princes of former Ages to join to these Personages men furnished with knowledge in these Cases of Conscience, Doct. Ridley of the Civil Law, fol. 228.

The Six Clerks in Chancery.

The Six Clerks, next in Degree to the Twelve Masters in Chancery, are of ancient Continuance; unto whom belongs the
Drawing

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Drawing of all Patents, Commissions, Licenses, Pardons and Warrants that pass the Great Seal of England; for which reason they were called Clerici Scribentes in Rotulis, as appears by certain Constitutions made for Ordering the Court of Chancery, Anno 12 Ric. 2. since which time the Reputation of their Office hath so much increased, that they have been specially assigned amongst other Officers to attend at the time of the King's Coronation, as appears by the Records of the Heralds Office.

They hold their Offices of the Master of the Rolls; and although the Six Clerks are themselves the proper Attorneys of the Court, yet they have many Clerks under them, who do the Business of the Office, and account to them for the same, as the Entering Clerks and Attorneys do to the Prothonotaries of the Courts at Common Law.

Clerk of the Crown.

2.

The Clerk of the Crown in Chancery is an Officer, who by himself, or his Deputy, is continually to attend the Lord Chancellor, or Lord Keeper, for special matters of State; by Commission, or otherwise, either immediately from his Majesty, or by Order

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der from the Privy Counsel, as well ordinary as extraordinary.

He makes all Commissions of Lieutenancy, of Justices of Assise, Oyer and Terminer, and of Gaol Delivery, or of the Peace, and such like; with their Writs of Association, and Dedimus Potestatem for taking of Oathes; also all General Pardons which are granted at a Coronation, or in Parliament, where he sitteth with the Writs for Election of Knights and Burgeses, which are returned into his Office.

He hath also the making all Special Pardons, and Writs of Execution upon Statutes Staple, and Bonds forfeited to the Crown, upon the Act of 23 H. 8. cap. 6. And this was annexed to his Office in the Reign of Queen Mary, in consideration of his continual and chargeable Attendance; both which Writs were before that time commonly made by every Curfitor, and Clerk of this Court.

Clerk of the Petty-Bag.

The Clerk of the Petty-Bag is also an Officer of this Court. In this Office there be three Clerks, of whom the Master of the Rolls is their Chief.

Their Office is to make all Patents of Customers, Gagers, Comptrollers and Al-
negers;

negers ; all Conge's d'eslier, for Bishops ; all Liberate's upon Extents of Statutes Staple ; the Recovery of Recognisances forfeited, and all Elegits upon them ; the summons of the Nobility, Clergy and Burgeses to the Parliament ; Commissions directed to Knights, and others of every Shire for assessing of Subsidies, and to receive the Monies due to the King for the same ; which you may see more fully in the Statutes of H. 8. cap. 3. and 33 H 8. cap. 22.

Clerk of the Hamper.

The Clerk of the Hamper, or Hanaper is also an Officer of this Court, who is otherwise called Warden of the Hamper ; his Office is to receive all Monies due to the King for the Seals of Charters, Patents, Commissions and Writs ; as also Fees due to the Officers for Inrolling and examining the same.

He is obliged to attend the Lord Chancellor, or Lord Keeper every day in Term-time, and at all other times when the Seat is open, having with him Leathern Bags, wherein are put all Writs, &c. after they are sealed with the Great Seal ; which Bags being sealed up by the Lord Chancellor, or Lord Keeper with his private Seal, are delivered by this Officer to

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the Comptroller of the Hamper to be disposed of by him, as to his Office appertaineth.

The Fees formerly paid into the Hamper for Fines upon Originals in Debt, or for Writs of Entry and Covenant upon any Alienation, were (according to Fitzherbert in his Natura Brevium, Tit. Disceit, fol. 95, E. as followeth; for every Writ of Debt of the Sum of 40 l. and more, to pay for every Writ of 40 l. — 6 s. 8 d. and if it be of 100 Marks — 6 s. 8 d. and so for every 100 Marks — 6 s. 8 d.

Likewise for every Writ of a Plea of Land, which is a Præcipe qd' reddat (unless it be a Writ of Right Patent) where the Land is of the yearly value of five Marks, 6 s. 8 d. &c. and so according to that rate.

But now the Course is, for every Original Writ, in which the Debt or Damages amount to more than 40 l. to pay a Fine to the Hamper of 6 s. 8 d. from 40 l. to 100 Marks; and of 3 s. 4 d. from 100 Marks to 100 l. and so 6 s. 8 d. for every 100 Marks, and 10 s. for every 100 l. the Debt, or Damages in such Original Writ shall amount to; but unless the Debt, or Damages shall exceed 40 l. no Fine is to be paid.

Note,

Note, If the Writ be abated, the Plaintiff shall have a New Writ for the same Fine, which they call a *Finem fecit*, if the first Writ be entred, Bro. Tit. Fine pur Contempt 50.

But the King's Fine for an Affise is 40 s. Co. 7 part, fol. 1. a.

In 23 H. 8. one Grey, and Elizabeth his Wife, being seised (in right of the said E.) of the Mannor of Empoles in West-Hall, in the County of Suff. levied a Fine thereof unto Nicholas Bohun and his Heirs, by the name of the Mannor of Empoles, and of a great number of Acres of Land, Meadow, &c. according to the common form of Fines : And the said Mannor, and Tenements were valued at 20 Marks per Annum, so that the Fine in the Hamper was 26s. 8d. which was indorsed upon the Writ of Covenant. And always the Fine pro Licencia Concordandi (which is called the King's Silver, or the Post Fine) is the Fine in the Hamper, and half the said Fine more. As in this Case, the Fine in the Hamper was 26s. 8d. and half that is 13 s. 4d. which in the whole amounts to 40 s. Co. 5. part, 43, b.

Com.

Comptroller of the Hamper.

The Comptroller is an Officer in this Court attending daily on the Lord Chancellor, or Lord Keeper, in the Term time, and days appointed for Sealing.

His Office is to take all Writs, or whatever else shall pass the Seal, from the Clerk of the Hamper, (as before hath been mentioned in the description of his Office) sealed up in Leathern Bags; which he opens, and counts the Number, and takes special notice of the Natures, Kinds, Qualities and Effects of all things so received; and enters the same in a Book (he keeps for that purpose) together with all Duties belonging to the King, or such Officers as are concerned therein, and then chargeth the Clerk of the Hamper with the same.

Cursiters.

Although the Clerks before mentioned, called Clerici de prima Forma have the Precedency, yet the Office of Cursiters is accounted much more ancient; for to them only it belongs to make out all Original Writs, which are the Foundation of Proceedings at the Common Law, vide Fitzherberts Preface to his Natura Brevium,
and

and the Preface to the third Part of Coke's Reports.

These Cursiters are bound by the Duty of their Offices to have knowledge, and skill in the true Forms of Original Writs; for that their Mistakes shall not be accounted Vitia Scriptorum, or Misprisions amenable by the Statute of 8 H. 6. cap. 12. Concerning which you may see many excellent Cases and Presidents in Co. 8 Part, fol. 159. and Finch's Law, 53, b.

The Cursiters are in number 24, and are a Corporation of themselves; they have allotted unto them severally certain Counties, into which they make out and send such Writs Original, and others, as are required of them by the Attorneys of the Courts at Law.

Examiners.

There are two Examiners in this Court, who (by their Deputies) examine the Parties in any Suit upon Oath, and Witnesses produced on either side; and put their Answers and Depositions made to Interrogatories in writing: But the Witnesses, or Parties must first be sworn by a Master in Chancery.

Ser-

Sergeant at Arms.

The Office of a Sergeant at Arms is to attend the Lord Chancellor, or Lord Keeper in this Court; he carrieth the Mace before him wheresoever he goeth, and calls all Persons before his Lord at his Commandment; there being but two ways to cause Defendants to make their Appearance, or come into this Court, viz. either by this Officer, or Subpena, whereof a Case is cited touching this Officer, in Co. 9 Part, fol. 98, b. being the Constat of a Record in Queen Maries times, the Tenour of which runs thus; — Midd. ff. Constat qd' Dominus Philippus & Domina Maria, nuper Rex & Regina Angliæ, Soror Dominae Reginae Elizabethæ nunc præclarissima, pro se Hæredibus & Successoribus dictæ Reginae Mariæ, per eorundem nuper Regis & Reginae Philippi & Mariæ Literas Patentes sub Magno Sigillo Angliæ confectas, geren' Dat' apud Westm' 23 die Septembris, Annis eorundem nuper Regis & Reginae tertio & quarto, Dederunt & Concesserunt Marco Steward Generoso, Officium Servientis, eorundem nuper Regis & Reginae Philippi & Mariæ, ad Arma, attenden' super Cancellarium Angliæ, pro tempore existen'; Ac ipsum Marcum

Marcum Servientem suum ad Arma fecerunt, ordinaverunt & constituerunt per easdem Literas Patentes : Habendum & Gaudendum Officium illud pro termino vitæ suæ, *with all Fees thereunto belonging and appertaining ; and with one certain Fee of 12 d. per Diem. And Wray Chief Justice, and all the Court said, That* forasmuch as the Lord Chancellor of England, or Lord Keeper of the Great Seal, is the King's Deputy *durante beneplacito*, therefore the service done by the said Sergear at Arms to either of them is by Law adjudged to be done to the King himself, *Co. 9 Part, fol. 99. a.*

Clerk of the Faculties.

Touching the Clerk of the Faculties, it is provided by the Statute of 25 H. 8. cap. 20. [Intituled an Act for the Exonerati- on of the King's Subjects from Exactions and Impositions, heretofore paid to the Synod of Rome ; and from having Licenses, and Dispensations within this Realm, without suing further for the same] in manner following : viz. That no manner of Dis- pensations, Licenses, Faculties, or other Receipts, or Writings hereafter to be granted to any Person, or Persons, by Virtue, or Authority of this Act, by the
said

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said Arch Bishop, or his Commissary, being of such Importance, that the Tax for the Expedition thereof at Rome extended to the Sum of 4 l. or above, shall in any ways be put in Execution till the same License, Dispensation, Faculty, Receipt, or Writing of what Name, or Nature soever it be of, be first confirmed by the King, his Heirs, and Successors, Kings of this Realm of *England*, under the Great Seal, and Inrolled in the Chancery in a Roll by a Clerk to be appointed for the same purpose, &c.

And in the end of the same Statute, amongst the Fees to be taken, and divided, it is said, That if the Tax be under 40 s. and not under 26 s. 8 d. the same Tax shall be divided into two parts, whereof one part shall be to the King, his Heirs and Successors, deducting thereout 2 s. for the Clerk of the Chancery for his said pains, and the other part shall be to the said Arch Bishop, and his Officers. Which other part shall be divided into two parts, whereof the Arch Bishop shall have one, and his Commissary, or Register shall have the other, equally to be divided between them.

And if the Tax be under 26 s. 8 d. and not under 20 s. the same shall be divided into two parts, whereof the King, his Heirs and Successors shall have one part intirely, abating

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(31)

abating two shillings thereof for the said Clerk of the Chancery ; and the Arch Bishop, and his Officers shall have the other part, to be divided into three parts, whereof the Arch Bishop to have one part, his Commissary the second part, and his Register the third part.

And if the Tax be under 20 s. the same shall be taken to the use of the Commissary, the Clerk of the said Arch Bishop, and Clerk of the Chancery ; to be equally divided amongst them, for their pains and labour, &c.

Clerk of the Presentments.

Concerning the Office of the Clerk of the Presentments, we read, That the Lord Chancellor of England by virtue of his Office shall present to any of the King's Churches, or Benefices, which are under the yearly value of 20 Marks, and be in the King's gift, in Right of the Crown, and whereof he is in such manner Patron.

But if the King have them by any other Collateral Title, then the Lord Chancellor, or Lord Keeper of the Great Seal, shall not have those Presentments, but the King ; notwithstanding such Presentments must pass the Great Seal of England, Plowd. Com. 528. 38 Ed. 3. 3. Fitz. N. B. 35, k.

But

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But it appears by 22 Ed. 4. 18. That it belongs to the Lord Chancellor, virtute Officij, to present to all the Kings Churches under the yearly value of forty Marks.

But the Authority of the Lord Chancellor, or Lord Keeper, in this behalf, hath been much enlarged by special Grants, or Letters Patents made to some of them since Mr. Fitzherbert's time.

It also belongs to the Lord Chancellor of England, or Lord Keeper of the Great Seal, to visit all Hospitals, which are of the King's Foundation, or which were founded by any of his Predecessors; as also, all Free Chappels of the King, or any of his Predecessors; for no Ordinary shall visit any of them, for if he doth, a Prohibition lies against him at the King's Suit, Fitz. N. B. 42. a.

Clerk of Appeals.

The Clerk of Appeals is an Officer pursuant to the Statute of 25 H. 8. cap. 19: By which (amongst other things) it was Enacted, That for lack of Justice at or in any of the Courts of the Arch Bishops of this Realm, or in any the King's Dominions, it shall be lawful to the Party grieved to appeal to the King's Court of Chancery; and that upon every such Appeal,

Appeal, a Commission shall be directed under the great Seal, to such Persons as shall be named by the King's Highness, his Heirs and Successors, even like as in Case of an Appeal from the Admiralty Court, to hear and definitively to Determine such Appeals.

Clerk of the Patents.

Clerk of the Patents is an Officer by Order of the Common Law; for though it be not expressed in any Statute, that the King's Patents should be Inrolled, yet so much is implied by the Law for the King's Benefit, (as hath been said before in the Title of the Master of the Rolls) for his Grants must appear by Record, which must remain with himself in his Custody, that is to say, in his Court; and in divers Statutes mention is made of Exemplifications, which could not be made, unless the Patents were inrolled, Crompt. Jurisdiction of Courts, Tit. Exchequer, 108.

Of the Priviledge of the Officers and Clerks of the Chancery, and their Attendants.

If the Lord Chancellor or any of his Servants, or a Clerk of the Chancery, or any of his Servants be Arrested upon an Action of Debt, or Trespass, in London, or elsewhere, and thereupon be sued in London before the Mayor, or Sheriff, there, they may have a Superfedeas out of the Chancery, directed to the said Mayor, &c. to surcease, and to acquaint the Party Plaintiff, that he may sue the Defendant in Chancery, if he think it expedient. For the Forms of the Writs of Priviledge for the Clerks of this Court, see the first Part of this Collection, fol. 105, and 109. By the former of which fol. 107. it appears that this Custom and Priviledge was confirmed by Authority of Parliament, Anno 18 Ed. 3.

If any Officer or Clerk of this Court be Arrested in London, or other Place; he shall have a Writ of Priviledge, with an absolute Superfedeas in it, Commanding the Plaintiff Qd' sequatur in Curia ubi, &c. si voluerit, where he may have his Remedy of Suit as well as elsewhere; in which no Procedendo shall be awarded to an Inferior

ferior Court : But otherwise it is where the Party Arrested had Priviledge by reason of, a Suit depending in a Superior Court for him, or against him, and that is the only Cause of his Priviledge ; per omnes Justic' Dyer 287. 31 H. 6. 13.

*One of the Clerks of the Chancery was sued in the Court of Common Pleas in an Acti-
on of Debt, and Proceſs continued until the Exigent ; and the Defendant, who was the Clerk, did ſue out a Superſedeas quia im-
provide, directed to the Sheriff ; and af-
terwards he brought his Writ of Privi-
ledge, directed to the Juſtices there, re-
citing his Priviledge in the Court of Chan-
cery, and required the Juſtices to ſurcease ;
and it was well Debated, whether he
ſhould have his Priviledge or not ; and at
laſt the Priviledge was diſallowed, and the
Chancery-Clerk forced to answer ; for the
Court was lawfully ſeiſed of the Plea by
the Act of the Defendant himſelf, for in
as much as he did ſue out the Superſedeas
quia improvide, he did affirm the Juris-
diction of the Court ; for every Superſe-
deas quia improvide reciteth an appearance
in Court of the Defendant, by his Attor-
ney, and ſhews his name, whereby it ap-
pears to be meerly his own Fault.*

*But if the Defendant had not ſued out
the Superſedeas to the Exigent, notwith-*

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standing the Exigent had gone forth, yet his Priviledge had been allowed; and thereupon divers Precedents were produced by the Court.

And it was then said, That after the Writ of Priviledge comes to the Justices, They ought to make to the Sheriff a Special Superfedeas to the Outlawry, reciting the Writ of Priviledge. The Tenour of which Writs of Priviledge, and Superfedeas, with the entry thereof, are as followeth.

Elizabetha Regina, &c. Vic' B. salutem Cum nuper tibi per Breve nostrum Preceperimus qd' Exigi faceres W. H nuper de, &c. de Com' in Com' quousque secundum Legem & Consuetudinem Regni nostri Angliæ Utlagaretur si non comp'uerit Et si comp'uerit qd' eum Capias Et salvo Custodiri facias Ita qd' eum habeas coram Justiciarijs nostris apud Westm' (tali Retorn') ad Respondend' C. N. de placito Quare vi & armis Clausum ipsius C. apud A. fregit & alia Enormia ei intulit, ad grave dampnum ipsius C. Et contra Pacem nostram Ac idem W. ven' in Cur' nostra Et protulit Justiciarijs nostris apud Westm' quoddam Breve de Privileg' è Cur' Cancellar' nostre emanant' eisdem Justiciarijs nostris direct' de supersedend' in predicto Placito versus eundem W. Et ideo Tibi precipimus qd' de

de prefat' W. ulterius Exigend' Utlagand' Capiend' seu in aliquo Molettand' occasione premissa Superfedeas omnino Periculo incumbente Dicens prefat' C. qd' sit coram Justiciarijs nostris apud Westmonasterium ad præfatum Terminum Ostensurus si quid pro se habeat vel dicere sciat Quare predictus W. Privilegijs Curia Cancellariae nostræ in eodem Placito gaudere non debeat si sibi viderit expediri Et qualiter hoc Præceptum nostrum fueris execut' Constare facias Justiciarijs nostris apud Westmonasterium ad præfatum Terminum Et habeas ibi hoc Breve Teste Johanne Dyer, &c.

The Entry of which Writ is as followeth.

Domina Regina Mandavit Justiciarijs suis hic Breve suum Clausum in hæc verba Elizabetha Dei Gratia Angliæ Scotiæ Franciæ & Hiberniæ Regina Fidei Defensor, &c. Vicecomiti B. salutem Cum nuper Tibi Præceperimus qd' Exigi faceres W. H. de Comitatu in Comitatum quo usque secundum Legem & Consuetudinem Regni nostri Angliæ Utlagaretur si non Comperuerit Et si Comperuerit tunc eum Caperes & salvo Custodiri faceres Ita qd' haberes Corpus ejus coram Justiciarijs nostris apud Westmonasterium (tali Retorn') ad respondendum C. N. de placito

cito Quare vi & armis Clausum ipsius C. apud B. fregit Et alia Enormia ei intulit ad grave Dampnum ipsius C. & contra Pacem nostram. Cujus quidem Brevis prætextu Scrutatis Rotulis & alijs Memorandis in Curia Dominæ Reginæ hic residentibus satis Constat de Recordo Qd' antequam prædictum Breve de Superfedendo deliberatum fuit Justiciarijs hic prædictus W. positus fuit in Exigendo in Comitatu H. ad satisfaciendum J. M. de quodam placito debiti super demandam decem Librarum ad Utlagandum Quod quidem Breve de Exigendo coram Justiciarijs hic in Crastino animarum proximo futuro retornabile existit Super quo prædictus W. pro Indempnitate sua petit Breve Dominæ Reginæ Vicecomiti H. dirigendum de supersedendo Executionem prædicti Brevis de Exigendo Ita qd' prædictus C. ad diem illum ostendere possit si quid, &c. Quare prædictus W. Privilegia Curia Cancellariæ Dominæ Reginæ juxta formam & effectum Brevis prædicti habere non debeat si, &c. Et ei Conceditur retornabile hic ad præfatum Terminum, &c. Idem dies datus est præfato W. hic, &c.

Observe here by the Precedents above inserted, That one W.H. a Clerk in Chancery was sued in the Common Pleas in an Acti-

on of *Trespass Quare Clausum fregit* at the suit of N. C. and that Process was continued to the Exigent, which was taken out and directed to the Sheriff of B. Whereupon the said W. brings his Writ of Privilege abovementioned out of the Court of Chancery, directed to the said Sheriff of B. Reciting the said Exigent, and Commanding the said Sheriff to sepersede the same, at his Peril; and to give notice to the Plaintiff that he be before the Justices of the Common Pleas at Westminster, at the Return of the Exigent, to shew Cause, if he can, why the said W. ought not to enjoy the Priviledges of the Court of Chancery, if the Plaintiff shall think it expedient for him so to do; and that the Sheriff (at the same Return) give an account to the said Justices in what manner he had Executed the said Writ.

By pretext of which Writ search being made amongst the Records of the Common Pleas, it appeared to the said Court, That before the said Writ of Supersedeas was delivered to the Justices there, the aforesaid W. was sued to the Exigent in the County of H. upon a Cap' ad Satisfaciend' for a Debt of 10 l. upon demand in order to be Outlaw'd; Which Writ was retornable in Crastino Animarum next coming before the Justices of the said Court of Common

Pleas, whereupon the said W. for his indemnity prayed the Queens Writ directed to the Sheriff of H. to supersede the Execution of the aforesaid Writ of Exigent, so that the said C. may shew Cause, if he can, why the said W. ought not to enjoy the Priviledges of the Court of Chancery, according to the effect of the aforesaid Writ; and it was granted unto him, &c. Vide Dyer 33, b. Et Nota Diversitatem.

In the Exchequer, Illingworth Chief Baron rehearsed to the Justices, That Tho. Young Justice, brought a Bill in the Exchequer against the Clerk of the Hamper in the Chancery, upon an Account due from him to the King; to which Bill the said Clerk of the Hamper did imparl the last Term, until this Term, and this Term his Supersedeas was sent to us, Reciting that he was a Clerk of the Chancery, and ought not to be sued elsewhere, but in that Court, commanding us to surcease, &c.

And the Chief Baron asked the said Justices, if the said Supersedeas were allowable, in as much as he hath affirmed the Jurisdiction, &c.

And it was held by all the Justices, without question, That when the Clerk of the Hamper did Imparl, and the Court was seised of the Plea, he could never after disaffirm the same; for all Courts are the Kings,

Kings, and have had their Original, and Antiquity from Time whereof Memory of Man is not to the contrary, forasmuch as no man can say which of them is the most ancient ; meaning the Superiour Courts at Westminster.

Also they were clearly of Opinion, That if the Clerk of the Hamper had not Imparled, yet his Supersedeas should not be allowed, for that every Accomptant ought to be Attendant, and present in the Court of Exchequer; and where he is present, there it is convenient for him to be sued.

Moreover, it is for the King's advantage that he be sued in the Exchequer, for if he should be compelled to answer elsewhere, then he could not attend here.

Likewise, an Accomptant here may have a Bill against his Debtor to hasten the King's present payment.

Also if an Accomptant in the Exchequer should be sued in the Common Pleas, he may have a Supersedeas to the Justices of that Court to cause them to surcease, &c.

Or, if such Accomptant be impleaded in the Court of King's Bench, the Barons of the Exchequer must shew the Record, that he is accountable there, &c. For they may not make a Supersedeas to the King, for that Court is holden coram Rege, &c. and thereupon

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thereupon he should be dismissed, for he ought to be sued in the Exchequer.

And Fairfax said, that this Suit of Justice Young is as Assignee of the King, by his Patent, to receive this Mony of the Clerk of the Hamper here upon his Account; and as no Supersedeas lies against the King, neither doth it lie against the Kings Assignee, &c.

And Justice Young himself said, What if the Lord Chancellor will Command me, upon a Penalty, that I should not sue the Clerk of the Hamper? To which Justice Billing answered, You are not bound to obey it, for such Commandment is against Law, 9 Ed. 4. 53.

If a necessary Officer, such as the Court of Chancery cannot be without, as Register, Master of the Chancery, or such like, be in Prison, the Chancellor may enlarge him; but if an Officer be in Execution for Debt, or Damages, he shall have no Priviledge, for then the Plaintiff would be without Remedy, if such Officer were once at large, Vide 2 E. 4. 8. and Cromptons Jurisdiction of Courts, fol. 48, b.

Note, That the Profits of the Office belonging to an Officer of this Court, shall not be Extended upon any Statute, or such like; for that a man shall never have any thing extended upon any Execution, unless he
may

may Grant and Assign over the same thing; but an Office cannot be Granted, because the Party that is the Officer is but a Servant to the Court, to do the Business and Service of the Court, and not his own Business; and it is also an Office of Trust, which is not Transferrable to a Stranger, as the Office to be Carver at my Table, which cannot be assigned over, Dyer fo. 7, b.

Powel, Clerk of the Crown in Chancery, and his Wife, as Executrix of her first Husband, were sued in the Court of Common Pleas in an Action of Debt.

Powel brought his Writ of Priviledge for himself and his Wife; Sed non Allocatur, for she is not impleadable there, nor is her Attendance required in the Court of Chancery.

But it is otherwise, where the Husband is impleaded alone in the Court of Common Pleas, and he coming with his Wife into Court to defend his Suit, and both of them are Arrested, in that Case they shall both have Priviledge, Dyer 377.

If the Husband hath Priviledge in the Court of Chancery, it will not serve for his Wife; and yet a Servant of a Servant shall have Priviledge: As a Servant immediate to the Lord Chancellor, or Lord Keeper. But the Wife is not properly a Servant, 35 H. 6. 3, 4.

It

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It is a Common Case in our Law Books, That in an Action of Debt brought against two, where one of them only hath cause of Priviledge, his Priviledge now shall not be allowed unto him. For where the Common Law, and a Private Custom, or Priviledge do meet together, there the Common Law shall be preferred, 9 Ed. 4. 4. b.

And Note, that if a Priviledged Person of this Court will untruly surmise, that one, who is impleaded in another Court, is his Servant, and thereupon procure for him a Writ of Priviledge to supersede the Action, as his Servant, whereby the Plaintiff in that Court is delaid, an Action of the Case will lie for the Plaintiff against such Officer, 24 E. 4. 22, b.

Note also, That if a Clerk of this Court sues out an Attachment of Priviledge against any other Person, whereby the Defendant is Condemned in Execution thereupon, yet a Capias ad Satisfaciendum will not lie for such Clerk against the Defendant, because no Capias, or Process of Outlawry doth lie upon such Attachment of Priviledge; Tamen quære, for if a man be Condemned upon a Recognisance, Execution against his Body will lie, Dyer 192, & 306.

Note, All Proceedings in Chancery wherein the Parties are to Plead, and join Issue, as at Common Law; as, Actions of Debt

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Debt brought upon Recognisances acknowledged in this Court; Actions brought in the Office of Clerk of the Petty Bag, by or against any Clerk, Officer or Minister of this Court, for any Matter or Thing whereof the Cause of Action doth properly arise, and is determinable at the Common Law; as also, all Issues directed out of this Court, to Try the Validity of some Point in question, in any Cause there depending by English Bill, &c. upon Action brought by Consent of the Parties Complainant and Defendant, or by Order of the Court, upon some supposed Agreement, or Feigned Assumpsit: In such Proceedings, Order is made by the Court of Chancery for Trial thereof, either in the Court of King's Bench or Common Pleas, into one of which Courts the Record shall be delivered [per Manus Cancellarij] by the Lord Chancellor, or Lord Keeper of the Great Seal of England for the time being, Co. lib. 9. fol. 99, a.

Sect.

Sect. 4. Of the twofold Power of the Chancery.

THIS Court hath a Twofold Power, the one called *Potentia Ordinaria*, and the other *Potentia Absoluta*.

Potentia Ordinaria is, where a certain Order is observed, as in the *Law Positive*, whereby the Lord Chancellor, or Lord Keeper proceedeth in Matters before him in this Court, according to the Course and Method of Proceedings at the Common Law, in manner as is abovementioned.

But *Lex Naturæ non habet certum Ordinem*, but by whatsoever means the Truth may be found, &c. Et ideo dicitur *Processus Absolutus*, &c. 9 Ed. 4. 14. And these two distinct Powers are acknowledged in our Books to be in the Breast of the Lord Chancellor or Lord Keeper respectively; and thereupon it is rightly said of this Court *Quod est Officina Justitiæ & Æquitatis*.

The Chancery is a Court of Record in all Matters there Treated of pertaining to the Common Law, wherein the Proceedings are, and must be according to the Ordinary Power before described; as, in Case of Repealing the King's Letters Patents upon a *Scire Facias*; or in Pleas of Debt, &c.

com-

commenced there by Attachment of Privilege ; and such Plea discussed there, is a Good Bar at the Common Law : For thereupon a Writ of Error doth lie in Parliament, according to 37 H. 6. 14, b. by Pri-
 sot, and 8. Ed. 4, b, a. by all the Justices ; but by Dyer 315 Anno 14 Eliz. an Erroneous Judgment in Chancery shall be Reversed in the King's Bench, as in the Case there Reported, where a Deed did bear Date before the Recognisance, and was delivered after. And if matter of Conscience do arise upon those Temporal Causes the Chancellor cannot adjudge them according to Conscience, but only according to Common Law ; for as to Matters of Equity, or Conscience, the Party grieved must make his Complaint to the Lord Chancellor, or Lord Keeper, by way of English Bill ; for the Ordinary, and Absolute Authority of the Lord Chancellor, or Lord Keeper, cannot be blended together, and be Miscellaneous, for that would make Confusion, the Rule in Law being Quando duo Jura concurrunt in una Persona, æquum est ac si esset in diversis, Vide 11 Ed. 4, 9, a.

Perjury is punishable by the Statute of 5 Eliz. cap. 9. and one would have brought his English Bill in Chancery, for Perjury committed there, contra formam Statuti, &c. But it was Resolved by Catlin, Dyer, Saunders

Saunders and Whiddon that it was not good; For, if the Chancery will Examine Perjury committed in that Court, as it may by that Statute, then it ought to be by a Latin Bill, and Pleaded in Latin, and Issue joined there, but Tried in the King's Bench, ut in similibus Casibus solet, Dyer 288, a,

Upon the like Reason are divers Cases in the Common Law; as, a man hath cause of Action concerning certain Lands, part whereof are Gildable, lying within a certain Jurisdiction of a Sheriff of a County, and the residue within the Cinque Ports; here the Plaintiff may not have one Writ for them all, because they are of two several Qualities, and Jurisdictions; but he must have one Writ directed to the Sheriff for that part which is within his Bailiwick, and another Writ directed to the Warden of the Cinque Ports, for the other part within that Franchise, 1 Ed. 3. 1, b.

So, one brings his Action against the Defendant in Custodia Marescalli; The Defendant changing that place is Committed to the Fleet in Execution upon a Condemnation in the Common Pleas, or Exchequer; here the Plaintiff in the King's Bench cannot pray that the Defendant (being condemned in the Common Pleas, or Exchequer) may remain in the Fleet in Execution for him,

him, because having once chosen his Prison he cannot change it, no more than where Process is once directed to the Coroners it shall be afterwards directed to the Sheriff, although there be a change of the Sheriff, Dyer 297, a.

So, if the Plaintiff brings his Writ for the Breach of any Statute Law, he shall have Judgment pursuant to such Writ, which is the Foundation of his Suit, but shall not ground his Action upon any Statute, and have Judgment as at the Common Law, nec è converso, Co. lib. 9. 74, a.

J. S. acknowledged a Recognisance in Chancery to G. O. in 200 l. who thereupon sued out a Scire Facias against the said J. S. upon which a Nichil was returned, and then issued out another Scire Facias against the same Reconusor, upon which a second Nichil being returned, Judgment was awarded in this manner, Ideo Consideratum est per Curiam qd' prædictus G. recuperet versus prædictum J. S. 200 l. and that the said G. shall have Execution against him. Upon which G. O. sued out a Levari Facias, whereupon the Sheriff returned, That J. S. had Nothing, &c. and thereupon the Court awarded a Capias ad Satisfaciendum, by force whereof the Sheriff did Arrest the Body of the said J. S. who afterwards made his Escape from the said Sheriff, whereupon

G. O.

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G. O. the Conusee brought an Action of Debt against the Sheriff upon the Escape, and it was Resolved by all the Court, First, That the Awarding of the Capias ad Satisfaciendum was Erroneous; for by the Law the Body of the Conusor was not liable to the Execution, Co. 8 Part, 142, a.

Secondly, That the Court of Chancery had no power to Award that Execution, for that his Goods and Chattels, Lands and Tenements are only liable, either upon a Fieri Facias, or an Elegit by the Statute of Westminster the second, Chap. 18.

Likewise the Tenour of the Recognisance saith Expresly, That the Debt shall be levied — De Bonis & Catallis, Terris & Tenementis Johannis S. ad quorumcunq; manus devenerunt, &c. and therefore no Capias ad Satisfaciendum doth lie in that Case, because no Process of Outlawry doth lie in the Court of Chancery upon the Original Process, Dyer 306, a.

Secl. 5. Of Warrants for the Great Seal.

THE Course used for passing the King's Letters Patents is in this manner: If they pass by Bill signed, without Privy Seal, the Patent is subscribed Per ipsum Regem, and then the Bill signed remains

remains with the Lord Chancellor, or Lord Keeper, for his Warrant.

And when it passeth by Bill signed, and Privy Seal also, then the Privy Seal remains with the Lord Chancellor, or Lord Keeper, and the Bill signed remains with the Clerk of the Signet, and the Lord Privy Seal hath an Extract of it to make the Privy Seal by, and then the Letters Patents are subscribed Per Breve de Privato Sigillo; and if Per Autoritatem Parliamenti be added, then it must pass according to the Statute of 27 H.8. cap. 11.

And when the King signeth the Patent himself, in the upper part, and the Signet and Great Seal do pass together, at one, and the same time, then it is subscribed per ipsum Regem Manu Sua Propria.

And when it is done by Authority of Parliament, then it is subscribed per Regem & totum Consilium in Parlamento, Co. 8 part, 18, b.

Every Warrant sent by the King to the Lord Chancellor, or Lord Keeper, shall, the day of the delivery thereof, be Entred of Record in the Chancery; and the Lord Chancellor, or Lord Keeper of the Great Seal, for the time being, shall cause Letters Patents to be made upon such Warrant, bearing Date the same day of the Delivery into the Chancery, and not before, in any

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wise. And if any Letters Patents be made to the contrary, they shall be void and of no effect, by the Statute of 18 H. 6. cap. 1. and for the full Exposition of this Statute, see Ludford and Cretons Case in Plowdens Commentaries, fol. 491, and Dyers Rep. fol. 133.

Note, By the Common Law no Grant from the King of Lands, is available, or pleadable, unless it be under the Great Seal of England, Co. 2 part, 16, b.

There be three several ways of procuring such a Grant under the Great Seal, as the Case shall require; viz.

First, The Party may have a Duplicate at the Sealing his Letters Patents.

Secondly, If the Letters Patents be lost he may have a Constat, upon Oath made that they are lost; and that if they be found again, then they shall be surrendred up in Court to be Cancelled.

Thirdly, The Party may have an Exemplification upon the Inrollment.

Sect. 6. Of an Exemplification, and Constat, and their difference.

B*Ecause the Statutes of Edw.6. cap. 4. and 13 Eliz. cap. 6. do extend to make an Exemplification, or a Constat of Letters Patents to be pleadable, it is requisite to know the Diversity between them, as also the signification of other words whereby Letters Patents are commonly discriminated or distinguished; as Inspeximus, Innotescimus and Vidimus.*

An Exemplification and an Inspeximus are all one, as are an Innotescimus and a Vidimus; an Inspeximus or an Exemplification beginning in this manner, Gulielmus & Maria Dei Gratia, &c. Omnibus ad quos præsentes Literæ nostræ pervenerint salutem Inspeximus Irrotulamentum quarundam Literarum Patentium. &c. It recites the Record verbatim, and concludes thus — Nos autem Tenorem Literarum Patentium prædictarum ad requisitionem A. B. duximus Exemplificandum per Præsentes In cujus rei Testimonium has Literas nostras fieri fecimus Patentes Testibus Nobis ipsis apud Westm', &c. And it is called an Inspeximus

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mus from the word it begins with after the Style of the King and Queen; It is also termed an Exemplification à Re ipsa, because the Record is thereby Exemplified, as appears by the words in the Conclusion, viz. Duximus Exemplificandum per Præsentes.

In like manner the Constat begins (after the Style of the King and Queen) after this Form — Constat Nobis per Inspectionem cujusdam Irrotulamenti in Curia Cancellariæ nostræ, qd' Dominus Jacobus nuper Rex Angliæ Avus noster præcharissimus Literas suas fieri fecit Patentes in hæc verba, Jacobus Dei Gratia, &c. and so recites all the Letters Patents verbatim, and Concludes in this manner, Nos autem, pro eo qd' Literæ Patentes prædictæ sunt casualiter amissæ sicut A. B. Nobis in Cancellaria nostra personaliter constitutus Sacramentum præstitit corporale Et qd' ipse Literas prædictas, si eas imposterum reperire contigerit Nobis in Cancellariam nostram prædictam restituerit cancellandas; Tenorem Irrotulamenti prædicti ad requisitionem A. B. duximus Exemplificandum per Præsentes, In cujus, &c. And it is called a Constat, for that, after the Style of the King and Queen, it begins with the word Constat;
but

but nothing is Exemplified thereby but the Tenour of the Record.

Also, by the Premisses it appears, That a Constat cannot be had without an Affidavit, as may be seen by the Form thereof; but an Inspeximus may be obtained without, no Oath being required in the Case.

For the Antiquity of an Inspeximus, or Exemplification, see Co. part 5. 54, a. and part 8. 28, b. and the Princes Case, where an Exemplification of an Act of Parliament is pleaded under the Great Seal.

An Innotescimus and Vidimus are likewise all one, and are always of a Charter of Feoffment, or some other Instrument of Record.

The Form of an Innotescimus is after this manner — Gulielmus & Maria Dei Gratia, &c. Omnibus ad quos præsentes Literæ nostræ pervenerint salutem Inspeximus quoddam scriptum factum per Antonium B. Carolo D. Sigillo ipsius Antonij sigillatum, ut dicitur, in hæc verba, Sciant præsentes & futuri qd' Ego Antonius Berisford, &c. and so recites the Instrument, or Deed of Feoffment de verbo in verbum unto the end, and then Concludes thus — Et hoc Omnibus quibus
d 4 interest,

interest, apt interesse poterit in præmissis Innotescimus ; In cujus rei Testimonium, &c.

This is also called Innotescimus from the word Innotescimus in the Conclusion.

Sometimes likewise an Exemplification begins with the word Vidimus, after the Style of the King and Queen; as Gulielmus & Maria Dei Gratia, &c. Omnibus ad quos præsentis Literæ nostræ pervenerint salutem ; Vidimus quoddam scriptum, &c. and then such an Exemplification is called a Vidimus, Co. ibid.

And Note, That it is a received Opinion, That if the King's Letters Patents be eaten with Rats or Mice, or other Vermin; Or if they shall happen to be stained, or spoiled by accident, That the King's Patentee cannot have a Constat of the same; but he may have an Exemplification de novo of the Inrollment or Record; because a Constat is never had but where the Letters Patents are actually lost, and thereof Affidavit must be made, as before hath been said.

Note also, That the Clerk of the Hammers Office was granted by King Henry the Eighth, by his Letters Patents to Sir Ralph Sadler Knight, and one John Hales, Habendum eisdem Radulpho Sadler Militi

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liti & Johanni Hales pro Termino vitæ eorum & alterius eorum diutius viventium.

Of which Grant two Patents were made of one Form, and the one was called a Duplicate, upon which the word Duplicate was written, above the Seal, and that was in the Custody of the said Mr. Hales.

But upon the Principal Patent, remaining in the Custody of the said Sir Ralph Sadler, was written these words — Per Warrantiam de Privato Sigillo, Authoritate Parliamenti.

Not long after Sir Ralph Sadler surrendered up and cancelled the Patent in his Custody, without the Consent of the said Mr. Hales, and thereupon a New Grant of the said Office was made to the said Sir Ralph Sadler and one Kemp.

Then Mr. Hales upon Notice of the New Grant to the said Sir Ralph Sadler and Kemp, claimed his Joint Estate in the said Office, and produced to the Court his Duplicate of the first Patent, whole and undefaced; and whether he had any Interest therein was the Question.

Whereupon the Court was of Opinion, That when the Original Patent was Cancelled, the Duplicate was void in Law, for that no Title can accrue by the Duplicate, because

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because such Patents are made and sealed by the Chancellor, at his Pleasure, without any Warrant or Command from the King to make the same, Dyer 171, b.

Sect. 7. Certain Cases wherein the Party grieved hath no Remedy in Equity.

IN the Exchequer Chamber, all the Judges of England being there present, the Archbishop of York, then Lord Chancellor of England, asked their Advice concerning a Subpena, saying, That Complaint had been made to him by one that was bound in a Statute Merchant to another, and that the Conusor had paid the Mony, but had not any Release, and that the Conusee had took out Execution upon the said Statute, but if he might be Examined upon his Oath, he would not deny the Truth. What say you my Lords (said the Chancellor to the Judges) may I grant a Subpena in this Case? To whom the Court answered, No, my Lord, it were against reason to grant a Subpena in this Case, for then by the Testimony of two Witnesses a Matter of Record might be defeated; It was the Conusors folly, in this Case, to pay the Mony due upon the Statute, and not to
take

take a Release of the Conusee: And the Chancellor did agree to the Opinion of the Justices in that Case, 22 Ed. 4. 46, b. Doctor and Student, 23.

And therefore with great Judgment did the Lord Chancellor Egerton, in his Book of the Postnati, fol. 39. pronounce the saying of the Archbishop and Chancellor above-mentioned, viz. Concordant Clerici in brevi faciendo ita qd' Nullus recedat a Cancellaria sine Remedio. For the Statute of Westminster 2 cap. 24. saith, That Quotiescunque de cætero evenerit in Cancellaria, qd' in uno Casu reperitur breve, & in consimili, cadente sub eodem Jure, & simili indigente remedio, non reperitur, Concordant Clerici de Cancellaria in brevi faciendo, &c. Ne contingat de cætero qd' Curia Regis deficiat Conquerentibus in Justicia perquirenda; so that it appears thereby that no General Rule can be had without limitation of the Subject Matter.

It appears by the Rolls of King Edward the Sixth's Time, remaining in the Chancery, That one Ross entred into a Recognisance of 1000 Marks unto one Pope, who purchased parcel of the Lands of the said Ross; and yet nevertheles the Conusee shall have Execution against the Conusor

nusor of that parcel which doth remain in his hands.

For, although every one of the Feoffees may have an Audita Querela against the Conusor, to make him contributory to the charge any of them shall be at, if Execution be sued against such Person only; yet the Conusor shall not have an Audita Querela against any of the Feoffees to make their Lands contributory to the Charge, in case that the Lands left in his hands be only put in Execution for the whole Debt; for the Burthen being his own, and he only is the Debtor, as hath been before shewed: If therefore the Conusor shall have no Contributitional Remedy against the other Feoffees, by the same reason, in the Principal Case, he may not discharge the Execution, because of the Purchase made by the Conusee of parcel of the Lands, for then the Execution of the Conusee would be discharged, by his being Contributory, if he were Feoffee only, and not Conusee; and then forasmuch as he shall not be Contributory when he is a Feoffee, and not a Conusee, he shall not be discharged as he is a Conusee, quia cessante Causa cessabit Effectus: And for these Reasons the acceptance of the Lands doth not discharge the Execution here, whereupon Judgment

ment was given that the Plaintiff should take nothing by his Writ, Plowd. Com. 72, a.

In a Bill depending in the Court of Requests between Snow Plaintiff, and Beverly Defendant, the Case was, That Snow had made an Obligation to the Defendant of 1000 l. and in the said Court would be discharged thereof, for that, at the time of the making the said Obligation, he was not of sound memory. But it was moved in the Court of King's Bench, to have a Prohibition, because the Matter was not determinable in Equity, and it was granted, for the Court of King's Bench did Resolve, That it being against an Express Maxim of the Common Law, viz. That the Party should not disable himself, Lit. Lib. 2. Sect. he shall therefore have no Relief thereof in any Court of Equity, for then that would be in subversion of a Maxim, Principle or Fundamental Ground of the Law, Co. lib. 4. fol. 124.

Judgments given at the Common Law cannot be Avoided or Examined in any Court of Equity, Quia Judicia reddita in Curijs Domini Regis non adnihilentur nisi per Attinctam vel per Errorem.

And

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And Mich. 31, and 32 Eliz. Sergeant Heal was Indicted in the King's Bench upon the Statute of 27 Ed. 3. cap. 1. of Premunire, for that a Judgment passing against his Clyent in the said Court of King's Bench, the said Sergeant Exhibited a Bill in Chancery to have the matter re-examined in that Court, in derogation of the said Judgment given in the King's Bench, Crompton's Jurisdiction of Courts, 57.

A. recovered Damages in an Action of Trespass against B. to the value of 20 l. by Verdict, upon a Nisi Prius at the Assises; and, before the day in Bank, B. procured an Injunction out of the Court of Chancery against the said A. under a certain Penalty to forbear entring up Judgment upon the said Verdict.

And the Court of Common Pleas being moved therein, Hussey, Chief Justice said, If the Plaintiff will pray Judgment he shall have it. But the Plaintiffs Council said, they feared two things; First, The Penalty contained in the Injunction: Secondly, The doubt of Imprisonment of their Clyent, for not obeying the Chancellor.

Fairfax, Justice, said, That, notwithstanding the Injunction, he may pray Judgment; Or, if the Injunction be to the Plaintiff

tiff himself, his Attorney may pray Judgment: Et è contra.

Hussey, Chief Justice, We have conferred with the Judges in this Matter, and We do not see any great hurt that may come to the Party, if he prays Judgment; For, to have the Sum mentioned in the Injunction, by way of Penalty, the Law will not allow: And, as to the Imprisonment of your Clyent, it must be, if any where, in the Fleet, whither, as soon as We shall have notice thereof, We will Order an Habeas Corpus to be directed, retornable before us, and when he is brought into Court thereupon, We will discharge him 22 Ed. 4. 37.

So, One being Condemned upon an Action brought in the Court of Common Pleas, Exhibited his Bill in the Court of Requests, and obtained an Injunction against the Plaintiff at Common Law, forbidding him to take out Execution upon his Judgment; Notwithstanding which he prayed Execution, and had it; and thereupon he was committed to the Fleet, but the Lord Chief Justice Dyer, and the Court discharged him, upon his bringing a Writ of Habeas Corpus; and this was about 13 Eliz. Inter Humfreys & Humfreys, Crompt. Jur. of Courts, 60, a.

One

One delivered a certain sum of Money to another, upon Condition, That he should deliver the same to a Woman, at the day of her Marriage, to her use; but, before her Marriage, he whose Money it was, revoked the said Condition, and Countermanded the Delivery of the Money; and it was held good by Shelley and Baldwin, Justices, 33 H. 8. Dyer 49. Because there was no Consideration in the Case. Such a Gift also seems to be void in Conscience, and the Woman to be without Remedy in Equity for want of a Consideration, Crompt. Jur. of Courts, 64, b.

B. an Infant, levied a Fine; and by Inspection, and other Proofs upon a Writ of Error brought thereupon, it was Reversed. Two Nichils being returned upon the Scire Facias against the Conusee, who was one P.

And afterwards the Conusor, being of full age, Enfeoffed a Stranger, against whom P. Exhibited his Bill in Chancery, and Witnesses were produced on the part of the said P. to prove the Conusor to be of full age, at the time of the Fine levied, which was Exemplified, and given in Evidence at the Common Pleas Bar, in an Action brought there upon a Writ of Entry in le quibus against him by K. and L. Feoffees

L. Feoffees of the said Conusor, and the Issue was Non Disseisivit.

And it was Resolved by the Court, That that evidence was of small force in Law against the Reversal of the Fine by the Precedent Judgment of the Court; For that the Authority of the Court was such, That Judgment there given by Inspection, cannot be Disannuled or Controlled, except in Parliament, because the natural and genuine Trial of the Law, in such Cases, is only by Inspection, ut patet, 25 Ass. Pl. 1. Dyer 201.

Wilkes made a Feoffment of his Mannor of H. in Com' Warr', and the Deed did recite the Consideration of 1000 l. to be paid to him by the Feoffees, of which said sum he did thereby acknowledge the Receipt, and thereof did acquit them by the said Deed.

But notwithstanding the said Feoffment, he kept possession of the said Mannor, and stocked the same with Sheep, &c. during his life.

After whose death, it was found by Inquisition upon a Writ of Diem Clausit Extremum, That he died seised of the said Mannor in Fee; and thereby also one John Wilkes his Brother was found to be his next Heir, &c. and thereupon there was
e
great

great question, if the Master of the Wards by his Discretion might remove the Feoffees by Injunction, out of their possession, upon Examination of the Consideration of the said Feoffment, which was false, for in truth there was no Money paid; and that the said Master might retain the Lands in manibus Domini Regis donec & quousque, &c.

But the Opinion of the Court was, That he could not; and that the Heir could not be admitted to Aver, That the Consideration was false, against the Deed and Confession of his Ancestor; for this would be the same thing, as to admit an Inconvenience, Dyer 196.

The Bishop of Salisbury was intituled to a Writ of Entry, sine assensu Capituli, for the Mannor of S. but not knowing who was Tenant of the Freehold, against whom he was to bring his Action, he thereupon Exhibited his Bill in Chancery against one who was the late Tenant thereof, and who had conveyed the Lands to another, unknown, as was suggested, to the intent the Bishop should not know against whom to bring his Action; and therefore the Bishop prayed by his said Bill, That the late Tenant might Discover un'o whom he had made the Conveyance. To which the Lord Keeper

Keeper Bacon said, That if the Bishops Council could shew any Precedent in that Court, that the like had been done before, his Prayer should be granted; but because they could shew no Precedent, therefore the Bishop could have no Remedy, 13 Eliz. Jewels Case, Crompton 48. Vide 9 Ed. 4. 41, b. per Justic' Catesby, Nemo tenetur prodere seipsum.

J. F. seised of a Tenement, and thirteen Acres, and two Roods of Copyhold Lands, and of three Acres and one Rood of Freehold Lands; by his Will dated the tenth day of October 1625. Charged the Premises in hijs verbis — Item, I give and bequeath one Annuity or yearly Rent of five Pounds, for ever, to be issuing and going forth of my Houses and Lands at St. F. in the said County of Norfolk, for and towards the maintenance of one able and sufficient Scholar, to teach Scholars at the intended Free-school at L. in the County of York; and to Preach the Word of God on the Sabbath days at H. G. Chappel there adjoyning.

Also, I give and bequeath one other Annuity, or yearly Rent of five Pounds, for ever, likewise to be issuing and going forth of my said Houses and Lands at St. F. aforesaid, to be distributed, for
e 2 *ever,*

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ever, to and among the Poor People of the Parish of *A.* where I was born ; at the discretion of the Parson, and Vestrymen of the same Parish, for the Time being.

Soon after the making of which said Will, the said J. F. the Testator died, without making any Surrender of the said Copyhold Lands to the Use of the said Will ; leaving behind him three Children, viz. William his Son, and Ann and Elizabeth, his two Daughters.

William was admitted to the Copyhold Tenement and Premisses, above devised, and died without Issue.

Ann died before Admittance:

Elizabeth was admitted as Heir to William, and in the Tear 1646. Devised the said Copyhold Tenement and Premisses to M. F. her Unkle ; who (without any respect being had unto, or notice taken of the Devise made unto him by the said Elizabeth) was admitted unto the said Copyhold Tenement and Premisses, as Unkle, and Heir to the said Elizabeth ; and in the Tear 1653. Surrendred, and Conveyed the said Copyhold Tenement and Premisses to T. H. and his Heirs for 288 Pounds.

T. H.

T. H. in the Tear 1659. Surrendred and Conveyed the said Copyhold Tenement and Premisses to W. B. and his Heirs for 250 Pound.

Note, That all the Premisses (except the Tenement and three Roods) are Field Lands, and uninclosed, and charged with the Quit Rents of nine and forty Shillings per Annum, at the least.

Note also, That the Repairs of the Premisses have cost W. B. eighty Pounds, besides the Fine he paid upon his admittance to the Copyhold Tenement, and Premisses; so that, if the said two Annuities should be added to the former Charges of Quit Rents, Repairs and Fine, they will much exceed the full yearly Profits thereof, besides Taxes.

Note likewise, That none of the Copies or Conveyances since the death of J. F. the Testator, do make any mention of his said Will; But William was admitted as Son and Heir of J. F. and Elizabeth as Heir to William; and M. F. as Heir to Elizabeth: So that the several Purchasers had not the least knowledge, or notice of the Charitable Uses said to be Bequeathed out of the Premisses thereby.

Moreover, The said Annuities were never demanded since the Tear 1646.

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Quære I.

Whether J. F. his Will can so Charge the Copyhold Tenement and Premisses, in regard there was no Surrender made by him to the Use of his said Will.

I Conceive it will be a good Charge upon the Freehold, but not upon the Copyhold Land by the Statute of 43 Eliz.

John Fountayne.

• Conceive a Devise of Copyhold Lands to a Charitable Use, may be good to Bind the *Equitable Interest* thereof, without any Surrender made to the Use of such Will.

W. Jones.

Quære II.

Whether Lands can be Charged for a Charitable Use, only intended?

I Conceive they can.

John Fountayne.

I Think it may.

W. Jones.

Quære

Quære III.

Whether W. B. and the Premisses be not secured by the Proviso of the 43 Eliz. cap. 4. concerning Purchasers bona fide, and upon valuable Consideration?

They are secured against any Decree to be made upon the Statute of 43 *Eliz.* by Commissioners upon that Statute; for they ought not to make any Decree upon that Statute against a Purchaser for a valuable Consideration, without Notice; and, if they do, such Decree will be Reversed upon Appeal in Chancery, and Exception to such Decree.

John Fountayne.

I think, that *W. B.* being a Purchaser upon a valuable Consideration, and having no Notice of this Charitable Use, before, or at the Time of his Purchase, is within the Express words and meaning of the Proviso of the Statute of 43 *Eliz. cap. 4.*

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And shall hold the Land discharged of the Charitable Use.

W. Jones.

Quære I V.

Whether W. B. will not be Relieved in Equity, in respect of the full Consideration paid by him? Of his Ignorance of the Charge? And of the greatness of that Charge? (If the Premises shall be liable to it) Which, amounting to more than the full yearly value of the Premises, will be a Mischief, as great, as that against which the Proviso of the said Statute of 43 Eliz. cap. 4. was made, on the behalf, and in favour of Purchasers bona fide, and upon valuable Consideration, &c.

If by Law the Purchaser be Charged, Equity will not help him; for there is Equity for the Charity, as well as for the Purchaser; and so Equity against Equity: in which Case the Law will prevail. But in this Case, I take the Law to be on the Purchasers side, and the Charity
not

not available against the Purchaser, without Notice.

John Fountayne.

This needs no Answer; He is within the Provifo.

W. Jones.

Thus far the Opinions of Sir John Fountayne, Sergeant at Law, and Sir William Jones, Attorney General to King Charles II. The other following is the Opinion of Charles Cremer of Gray's Inn Esquire, upon the said Case.

- (1.) Copyhold may be Charged, or Given by Will to Charitable Uses *intended*, without Surrender, to the Use of the Will, by the Statute of 43 *Eliz. cap. 4.*
- (2.) In this Case, the Rent is Chargeable, on both Freehold and Copyhold; for it being Freehold, and no Seisin given, and being above thirty years ago, is not now more Chargeable on the Freehold, than on the Copyhold but by help of the Statute of 4th *Eliz.* By which,
I take

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I take it, both will be Chargeable, especially since the Freehold is not able to answer the whole Rent.

- (3.) In Case of Rent issuing out of Land, Notice is not Requisite to a Purchaser, but the Land will be Charged without Notice, into whose hands soever it comes, and so the last Purchaser liable to answer the Rent ; But perhaps for Arrears, but from Notice. And I am clearly of Opinion, That the Proviso in the Statute, helps not, in this Case, the Purchaser ; for he Purchased the Land, and not the Rent ; and that it helps none but the Purchaser of the Thing appointed to the good use, not having Notice

Charles Cremer.

Sect.

Sect. 8. Some Observations relating to the Practice of this Court.

I*F one produced as a Witneß, in this Court, be contradictory in his Depositions, or Depoſeth that which is apparently false in any part thereof, he ſhall be rejected, and the Party be commanded to produce better Witneſſes.*

If a Commiſſion of Rebellion iſſue out of this Court, againſt any Perſon for Contempt in not appearing to the Subpena, and other mean Proceß, the Commiſſioners may break open his Houſe to take him, becauſe of his Contempt to the Law. They may alſo by virtue of the ſaid Commiſſion break open the Houſe of any other Perſon, where he is (although a Mans Houſe is eſteemed his Sanctuary and Caſtle) as a Sheriff may in caſe of an Outlawry, Co. 5 Part 92. But upon Proceß of Attachment out of this Court the Sheriff may not break the Houſe of any Man.

After Witneſſes are Examined upon Commiſſion, or in Court, Publication of the Depoſitions may be ſtaid, by Motion upon reaſonable Cauſe; as that the Party
had

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had other Witnesses to be sworn at the time of the Commission, &c. But after Publication he shall have no other Witnesses examined.

Nevertheless this Court hath sometimes after Publication past, allowed New Proofs to be Examined, Probationes Abornantes, because they tend to the better Explanation of the former Depositions; As A. and B. are supposed to have done such an Act, the Proof whereof is but obscurely set forth in the Witnesses Depositions, not giving any reasonable Testimony of their knowledge touching the performance of such Act in any particular; Now, if such obscure Deposition be published, and the Deponent happen to die, others may well Depose, That they were present at the performance of that Act, and so Explain the first Depositions.

But if they Depose any Thing contrary to the former Depositions, or which may alter any part of the substance thereof, such Deposition is void, Keilways Rep. fol. 96.

A Subpena is returnable before the end of the Term two days, in this Case the Defendant must answer the same Term. But if it be returnable the last Return, as Quindena Martini, or Octabis

his Purificationis, then the Defendant is not Compelled to answer before the next Term.

If a Feme sole brings her Bill in this Court, and, Pendente Lite, takes a Husband, the Suit shall abate, and must be renewed by Bill of Reviver in both their Names.

But, if a Feme sole be Defendant, and taketh a Husband Pendente Lite, the Suit shall continue at the peril of him that shall marry with her.

If A. by his Bill make Title to himself as Tenant in Tail, and by his Replication, saith, That he is seised in Fee-simple, or that he is Tenant for life of a Copyhold Estate, according to the Custom of the Mannor, This is a Departure from the former Title he made to himself by his Bill, which is not to be allowed, because Judgment must pass secundum formam Petitionis.

The Defendant may not Demur to any Bill, but he must be personally present at the putting in of the same into the Court, or else it is as great a Contempt, as if he said nothing at all: Neither shall any Demurrer be allowed after Replication.

If

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If the Plaintiff and Defendant be at full Issue, and Publication granted, and the Defendant is dismissed because the Complainant hath not proved his Bill; and the Complainant doth afterwards Commence a New Action in another Court for the same Matter contained in his former Bill; In this Case, this Court will aid the Defendant, and Compel the Complainant to Exhibit his Bill de Novo in this Court; Except the Defendant be dismissed to the Common Law by special Order: Otherwise, every Plaintiff may Compel the Defendant to disclose his Title in this Court, and so Delude the Court and make it an Instrument to all other Courts which is superior to them. And yet upon a New Bill the Plaintiff must pay to the Defendant Costs before he doth answer.

And if the Defendant be dismissed definitively, then the Plaintiff is without Remedy to revive this Matter again, either in this Court, or in any other.

A. Exhibits his Bill against B. and after Issue joined, A. dieth, then shall the Heir of A. Revive the Title of his Father by a New Bill; but the Defendants former Answer shall stand, except the Son by his Bill of Reviver set forth New Matter,

ter, which was contained in his Ancestors Bill.

But a Bill of Reviver upon a Bill of Reviver shall not be admitted for the Infiniteness thereof, Infinitum enim in Jure reprobatur, Co. 7 part, 45, b.

Neither shall a Bill of Review upon a Bill of Review be admitted; But a Demurrer thereunto will be allowed.

If a Cause depends by Bill in this Court between Plaintiff and Defendant, and afterwards the Plaintiff would have the Defendant sworn and examined upon Interrogatories as a Witness in that Cause; If the Defendant will do so, the Court will Compel the Plaintiff to stand to the Defendants Depositions; as Conclusive, or otherwise the Defendant ought not to be examined; Except some New Act be done by the Defendant in Puilne Temps, and after the Issue joined; as, a Feoffment made, and an Estate executed; or a Release by Covyn long after the Matter was pleaded on both sides: For in such Cases the Plaintiff may Compel the Defendant to be Examined.

If the Plaintiff have a day to Reply, and maketh Default, the Defendant shall have Costs; and after that the Plaintiff hath paid the Costs, he may proceed in
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the Cause by way of Replication ; But the Defendant shall not be dismissed the Court, because the Plaintiff hath not put in his Replication ; for if he should, then would the Plaintiff be utterly debarred and excluded from renewing or reviving again that Matter which is contained in his Bill, though he have never so good Proof of the same ; And it would be severity in this Court (being the supreme Court of Equity) to deprive the Plaintiff of the Remedy which he sought here, for want of putting in his Replication, which perhaps might be the fault of his Concel, Attorney or Sollicitor.

Note, It was agreed by all the Justices, Mich. 45 Ed. 3. That although the Chancery do Err in granting a Supersedeas or an Injunction, yet all inferiour Courts ought to obey it, Fitz. Tit. Supersedeas, Pl. 13, 18.

A Subpena being issued out of Chancery against B. to answer A. concerning certain Goods and Chattels, to the value of, &c. which one F. had forfeited to the King by his Attainder of Treason, which came to the hands of the Defendant, and which the King had given to the Plaintiff, by his Letters Patents, who preferred his Bill thereupon ; To which the Defendant
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Demurrer in Law, and demanded the Judgment of the Court, if he ought to answer, alledging that the Plaintiff might, upon the Matter Complained of in his Bill, have a Writ of Detinue at the Common Law, and therefore ought not to sue for the same in Chancery, for ubi cessat Remedium Ordinarium, ibi decurrit ad Extraordinarium; Et nunquam decurrit ad Extraordinarium ubi valet Ordinarium.

Tet nevertheless by the Opinion of the Court, the Subpena did well lie in this Case; and therefore the Defendant was Commanded to make an Inventory upon Oath of all the Goods and Chattels that came to his hands, which were the Persons attainted, by a day prefixt, otherwise to be committed to the Fleet. And the Reason, upon which the said Order is grounded, was because peradventure the Plaintiff could not have knowledge, any other way, of the quantity, quality, or number of the said Goods, and Chattels, to demand them, as he ought by a Writ of Detinue, at Common Law.

A Subpena issued out of this Court, and the Case was, Two were Executors, and one of them Released to a Debtor of the Testator, without the Consent of his
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Com.

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Companion, whereby the Will could not be performed, as was surmised; and the Subpena was against him who made the Release, and against him to whom the Release was made; but the Opinion of the Court was, That it is lawful for a Debtor to procure his own Discharge.

A. was bound to C. and D. to the use of C. and afterwards D. Released to A. and C. took out a Subpena against D. and also against A. but A. was discharged of the said Subpena, and it was ordered to stand only against D. but the Plaintiffs Councel not satisfied therewith, said, If a Feoffee in Trust makes a Feoffment to one, who knows of the Trust, a Subpena will lie against them both; and so of Chattels; and therefore in the Principal Case A. in Conscience is not discharged, unless in Truth he hath paid the whole Mony to D.

A. sued out a Subpena against B. and the Case was; B. had Lands in Extent upon a Statute, and afterwards purchased the same to him, and his Heirs in Fee; and a Common Recovery was had thereof, with Voucher, &c. and the Recoverer entered, and ousted A. and it was holden by the Court, That, forasmuch as A. having but a Chattel, could not satisfie the Recovery

covery by the Common Law, as Tenant for Life might, Therefore he should be restored to his Possession, Right and Interest in Equity by the Court of Chancery; and the rather, because Common Recoveries are but as Feoffments, and Common Assurances.

Lessee for Life, the Remainder for Life, the Remainder in Fee; The first Lessee Commits Waste: It is not punishable by him that hath the Fee simple, by reason of the Mesn Estate for Life, Co. 5 part, 76, b. Vide Stat. 20 Ed 1. cap.

But the Chancery may, upon a Bill preferred for this matter, issue out an Injunction to Compel the first Lessee to disist from Committing Waste. For although no Action of Waste doth lie, in this Case, for the Tenant in Fee, at Common Law; yet it is against reason that the first Lessee should Commit Waste ad damnum & prejudicium alterius: For he ought to observe the Rule, Sic enim utere tuo, ut alieno ne lædas.

A Woman, Copyholder for Life, takes a Husband, and the Reversion of the said Copyhold Estate was granted to three, viz. A. B. and C. cum acciderit by surrender, or forfeiture, for their Lives successivè, according to the Custom of the Mannor.

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The Husband surrendered to the use of A. for Life, to whom the Lord granted by Copy of Court Roll accordingly.

A. and B. die. The Opinion of the Court was, That C. hath no Right to be Admitted either by Law, or Equity ; for that, after the death of the Husband, the Wife may Enter, or have a Plaint in the Court of the Lord of the Mannor, in the Nature of a Cui in Vita contradicere non potuit ; and, during the Husbands Life the Lord may have it in the Nature of an Occupancy.

But the Case did proceed further, viz. That the Husband and Wife were willing to Release all the Right of the Wife unto the surviving Reversioner, but the Lord would not consent unto it, nor hold a Court for the doing thereof ; Whereupon it was Ordered, by Decree in Chancery, That the Lord should hold a Court, and accept of their Conveyance, or otherwise avoid the Possession thereof, Dyer 264, a.

A. is Lord of the Mannor, and B. is Tenant of several Customary Lands and Tenements holden of the said Mannor, in Fee, by Copy of Court Roll, according to the Custom of the said Mannor. The Lord Grants the Inheritance of the said Copyhold unto C. a Stranger in Fee.

In

In this Case B. the Copyholder is so prejudiced, that he cannot surrender, or otherwise alienate his Estate; for he may not alienate but by surrender in manus Domini Serviciorum, as the Custom doth warrant, and that he cannot do now, nor can C. the Grantee make any Admittance, or Grant of the Copyhold, for he is but Dominus Manerij pro tempore; and therefore, if B. the Copyholder in Fee, will Alienate or Transfer his Estate in the Premises, there is no other way or means left for him, but to have a Decree against C. the Grantee, and his Heirs, in the Court of Chancery: Yet nevertheless by it the full Interest of the Land is not bound, but the Person only, Co. 4 part, 25, a. But see Noys Rep. 172. Simpson and Gillions Case, Where its said, That if a Copyholder in Fee dies, and the Lord admits a Stranger, the Heir of the Copyholder may Enter, and Maintain Trespass, without an Admission by the Lord.

A. prefers his Bill in Chancery against B. for the Mannor of C. After Issue joined, B. dieth, and A. by a New Bill Revives the Suit against D. the Defendants Heir; in this Case, the said Heir shall not be admitted to say, That his

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Ancestor died seised of the said Mannor, so that he ought to make no Answer by reason of a Discent cast upon him, but the Court will compel him to make a better Answer.

Vide 8 Ed. 4. 5. Where said, That if a Subpena be against two Executors, or Feoffees in Trust, one of them shall not be Compelled to answer without the other (by the Opinion of the Chancellor and Justices) for they both, as one represent the Person of the Testator; and by the ignorance of him, who only doth appear, the other that is absent may be prejudiced; for it may be that he hath sufficient Matter to Bar the Plaintiff, of which, he that doth appear hath no knowledge.

But if an Attachment be against two Clerks of this Court, as Executors, and one of them doth appear, he shall answer alone, because of the Statute of 9 Ed. 3. cap. 3. Is qui prius venerit respondeat; for this Attachment is as a Suit at the Common Law, wherein all Proceedings must be according to the Chancellors Ordinary Power.

But otherwise it is, where the Process is absolute, as a Subpena, and there note the difference.

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Regularly a Man shall not be prejudiced in Courts of Equity, for Mispleading, or Want of Form. so that he can prove the Matter of his Bill vijs & modis it is sufficient; for the Judges of those Courts sit there secundum Potestatem Absolutam, and shall judge there secundum Allegata & Probata, 8 Ed. 4. 19, b. & 16 Ed. 4. 9 b.

But the Case in 21 H. 7. 34, b. was, That the Plaintiff in Chancery did not prove his Bill, but the Proof of the Defendant was better, so that he was likely to be dismissed; and therefore the Plaintiff to hinder that, informed the Court, That the Matter in his Bill was determinable at Common Law, and not in this Court of Equity.

But the Court said, He should be Estopped therein, for that it was his own Suit, therefore it doth not lie in his Power so to do; For when a Plaintiff Commenceth his Suit in this Court, he ought to prove his Bill, although the Defendant do never perfectly answer thereunto, or else he never shall have Judgment: And the Chancellor was of the same Opinion, 22 Ed. 4. 9, b.

Note, That if the Party take a Traverse, which is adjudged insufficient in Law, it is peremptory unto him, and he shall not be received after to take a New Traverse, as appears in 40 Aff. pl. 24. 8 Ed. 4. 5. And yet in 15 Ed. 4. 6. the contrary Opinion is holden, That it is not peremptory, because a Proceeding and Pleading in Chancery, which is a Court of Equity. But as to that, it may be answered, That the Chancellor hath two Powers, the one Absolute, the other Ordinary, and this Traverse may be before him by his Ordinary Power, in which all Things, touching the same, must proceed, as before any other Judge at the Common Law, Stamf. Prærog. cap. 20. 3 H. 4. 6. b.

An Infant, within Age, acknowledged a Statute, and afterwards brought an Audita Querela thereupon in the Common Pleas; And the Question was, If the Suit might be in the King's Bench, or whether it ought to be in the Chancery. It was Resolved by the Justices, That the Suit might be in the Common Pleas, or the King's Bench, as well as the Chancery, Croke's Eliz. 208. Clavel and Molloy's Case.

The Parties were at Issue in Chancery upon an Issue Triable at Law upon an Audita

dita Querela; and the Lord Chancellor writ to the Bishop of Durham to try the Issue, who tried it accordingly, and a Verdict was given: It was the Opinion, and Order of the Justices of the Court of King's Bench, That the Verdict should be quashed; for they said, That the Chancellor cannot call a Jury at their Bar to try an Issue, but the Chancellor ought to deliver the Issue himself with his own hands into the Court of King's Bench, and they to try the Issue there; and upon Verdict they ought to give Judgment, and not return the same again into the Chancery, because the Chancery is rid of that matter.

And so it is, If an Issue is to be tried in any other Franchise, where they are not Compellable at Westminster to try an Issue, as in Ireland.

And Dodderidge, Justice, said, He never heard, or saw, before, That the Chancellor had written to any County Palatine to try an Issue; but that the Court of King's Bench might well do it. Pasch. Anno Primo Caroli Primi in Banco Regis, Telv. Rep. 3.

One C. E. Anno 15 Jacobi Primi makes his Will in Writing, and by the same Devises some Legacies to Charitable Uses,
and

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and other Legacies to R. and W. his Brothers, that is to say, to one of them he gave 100 l. and to the other 1000 l. and some other Legacies to his Kindred; and made his Wife Executrix of his said Will.

Afterward Anno 22 ejusdem Regis, He sent for some Persons to come to him, and when they came, they demanded of him, what Friend he thought best to be his Executor, and to see his Will performed; and whether he trusted any Person more than his Wife? He answered, That his Wife was the fittest Person, and therefore should be his Sole Executrix.

Being then moved to give other Legacies to his Fathers Brethren, and Kindred; He answered, He would not leave them any thing; but Bequeathed to J. S. his Godson, 30 s. and being requested by his Wife to give him a greater Legacy; He answered her, Thou know'st not what thou sayst; do not wrong thy self, 30 s. is mony in a Poor Bodies Purse. That the Testator spake these words, Animo Testandi, & Ultimam Voluntatem Declarandi, and all this was set down in a Codicil, and the first Will, and that Codicil were proved in Common Form.

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The Question was; Whether this Codicil was a Revocation of the Legacies given to the Testators two Brothers ?

It was Resolved, both by the Doctors of the Civil Law, and by the Judges of Common Law, That it was no Revocation of the Legacies,

Their Reasons were,

Because there was an absolute Formal Will made in his health; and there being no speech made by him of his former Will, nor of the Legacies thereby Devised; The Answer to a doubtful Question, shall not take away the Legacies before Devised.

Secondly, His answering, I will not give them any Thing; upon such Doubtful Speeches to make void a Will, advisedly made, shall not be permitted, without clear or perspicuous Revocation, or words which amount to a Tantamount.

And upon these Opinions of the Judges and Civilians, the Lord Keeper Decreed the Legacies to the two Brothers, The Codicil not making any Revocation of the same, Crokes Caroli 37. Eyres Case.

*J. S. being Complaynant against B. in the Court of Chancery, it appeared upon Bill and Answer, That by an Order there, He made one L. to be Party to the Bill
against*

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against B. and a Commission issued out between L. and B. upon which Commission, the Defendant was Examined on the part of the said L. and deposed directly for the said L. upon which a Decree was had in the said Court of Chancery against B. and for this Matter B. brought an Action of Debt against the Defendant upon the Statute of 5 Eliz. of Perjury, as a Party grieved by the Deposition of the Defendant.

It was the Opinion of the Justices, That the Action did not lie, because in this Case L. was not a Party to the Suit, but came in Collaterally by Order; and no Bill depending either against him, or brought by him, he was not within the Statute; for as a Penal Law it ought to be taken strictly, Yelvertons Rep. 22. Brode and Owens Case.

In the Case in Chancery between the Lord Aubigny, Complaynant, and the Lord Clifton, Defendant, concerning a Promise supposed to be made by him of Assurance of Lands upon the Marriage of his Lady; The King by his Letters under his Sign Manual, certified to the Lord Chancellor, the Manner and Substance of the Promise, as it was made to his Majesty; in regard whereof his Majesty gave to the
Lord

Lord Aubigny 18000 l. in lieu of 1000 l. per Annum, which he had promised; Which Certificate was allowed upon hearing of the Cause, for a sufficient Testimony and Proof of so much, Hobarts Rep. 213. Dom. Aubigny cont. Dom. Clifton.

See likewise Trin. 10 Jacobi Primi, in the Case between Henry Lea Plaintiff, and Sir Henry Lea Defendant, concerning Title to certain Lands, of which H. Lea brought his Bill in Equity in the Court of Requests; and the King being informed thereof, Sir H. Lea promised, That if the Plaintiff would not molest him for any of the said Land, That he would give him 200 l. per Annum; and being sued for not performance of his said Promise, the King Certified the Promise into the Court under his Seal, and it was holden a sufficient Proof, and Testimony of the said Promise, whereupon a Decree was made for the Performance thereof, Godbolts Rep. 199.

In Hillary Term Anno 22 Jacobi Primi, a Commission was awarded out of Chancery to examine Witnesses, which was returnable in Easter Term following. The Commissioners began the Examination of the Witnesses upon Monday the 28th day of March 1625. which was the day after the
Demise

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Demise of King James, and continued in Examination of divers Witnesses until Friday following, at which day, and not before, having notice of the Demise of the King, they surceased.

And whether this Examination of Witnesses, and their Depositions should be suppressed ? was the Question.

It was the Opinion of the Justices, That the Depositions should stand; for although legally the Commission was Determined, by the Demise of the King; yet the Commissioners having no notice thereof, and having examined Witnesses thereupon, they held, That such Witnesses were duly sworn and examined, and their Depositions should be allowed, especially in a Court of Equity, where the Proceedings are de Jure Naturali, and not according to the strict Rules of the Common Law. And the Justices approved of the Course that was used to preserve the Testimony of those who were examined, which was, That the Witnesses should be called, and their former Examinations, and the Interrogatories tendred to such of them as were alive, and whether they approved of them, or not to examine them de novo.

It was then propounded to the Justices, If any Witnesses examined upon such a
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Commission should be Perjured, whether they might be punished by the Statute of 5 Eliz for that Perjury? It was resolved by them all, that they might not; for being examined before notice of the King's Demise, what they did was legal, Croke's Caroli, 69, 70. Sir Randal Crew and Sir Geo. Vernon's Case.

Note, It was the Opinion of the Justices of the Court of King's Bench in Michaelmas Term Anno 21 Jacobi Primi, That the Defendants Answer in a Court of Equity to an English Bill, is good Evidence to be given to a Jury against the Defendant himself, but it is no Evidence to be given against other Parties.

Also they said, that if an Action be brought against two Persons, and the Plaintiff at the Assises proceedeth against one of them only; In that Case, he (against whom the Plaintiff did surcease his Suit) may be allowed, as a Witness to give Evidence in the same Cause.

And they likewise agreed, That if the Party cannot find his Witness to give Testimony viva voce, then he is (as it were) dead unto him, and his Deposition in a Court of Equity, between the said Parties, Plaintiff and Defendant, may be allowed to be read to the Jury; so as the
Party

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Party do make Oath that he did his Endeavour to find his Witneß, but could not, Godbolts Rep. 327.

One Exhibited his Bill in Chancery for discovery of Evidences, and made Title in his Bill to Lands which the Evidences did concern; The Defendant also did Entitle himself to the same Lands, and so justified detaining of the Evidences for Maintaining his own Title to the said Lands.

Whereupon, after Examination of Witnesses on both sides, the Matter came to Hearing, and, for doubtfulneß in the Testimony of several of the Witnesses, the Court Ordered the Plaintiff to bring an Action of Trespaß against the Defendant (upon an Entry to be made by the Defendant) To which Action the Defendant should plead to the Freehold, and thereupon they should take Issue, and the Issue should be tried at the Bar of the Court of King's Bench, and the Jury should be named by the Justices of Assise where the Lands lie, and he that had the Verdict should have his Possession established in the Chancery, till the other can make a better Title, Crompt. Jur. of Courts, 44, b.

*A. Devised that J. S. and three others should sell certain Lands, and should dispose of the Monies to the Defendants, and
three*

three others; the Lands were sold accordingly: The Defendant sued the Executor of J. S. in the Spiritual Court, for a fourth part of the Mony; whereupon a Prohibition was Prayed: It was resolved in this Case, That neither the Lands, nor the Mony was Testamentary, for it was not Assets to Debts, but a sum of Mony arising from Lands, appointed to a Special Use in an Equitable way, and not as a Legacy; and that Court cannot hold a Plea of a Legacy in Equity: But it was Resolved, That in such Case the Suit might have been in Chancery, or other Court of Equity, to have Compelled the Defendant to perform the Legacy, Hob. 265, Edwards and Grovers Case.

One Committed to the Fleet for not performing a Decree in Chancery, being brought by Habeas Corpus into the Court of King's Bench; The Case was, That A. had sold to B. a young Gentleman, a Jewel which he pretended to be worth 360 l. (whereas it was worth but 20 l.) and took a Bond of him of 600 l. in the name of J. S. and A. procured the Bond to be put in suit, and obtained Judgment thereupon against B. and A. paid all the Charges thereof.

B. Exhibited his Bill in Chancery to be relieved in the Premises.

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B. also after that brought a Writ of Error to Reverse the Judgment, upon which the Judgment was Affirmed.

Afterwards, upon the Hearing in Chancery, it was Decreed;

1. That A. should take his Jewel again.
2. That J. S. should Release to B. and,
3. That J. S. should acknowledge Satisfaction upon the said Judgment.

It was holden by the said Court of King's Bench, That the Decree made in the Court of Chancery in this Case, and the Imprisonment, for not performing the same, after Judgment at the Common Law, was unlawful; and 5 Ed. 4. Rotulo 35. Cobb and Mores Case was vouched; where Cobb procured an Action of Debt to be brought against More, and the Action to be confessed by Attorney, and a Writ of Error was brought thereupon, and the Judgment was Affirmed; and this being done when More was beyond Sea, he Exhibited his Bill to be Relieved against the Judgment.

In this Case it was Resolved,

That, after a Judgment at Common Law, the Party could not be Relieved in Chancery; whereupon More had no other Remedy than to bring his Bill in Parliament, where a Special Act was made for his Relief,

lief, Cro. Jacobi 344. Courtney and Glanvils Case.

And see Mich. 40 Eliz. Sir Moyle Finch and Throgmorton's Case, where an Action of Debt was brought upon a Lease made by the Queen, for Nonpayment of Rent, by Sir M. F. who had purchased the Reversion of the Queen, 3 Eliz. (and afterwards 9 Eliz. Entred for Nonpayment of the Rent by the Lessee) and had Judgment thereupon against the Defendant, who brought his Writ of Error upon the same, but the Judgment being Affirmed, the Defendant Exhibited his Bill in Chancery, suggesting thereby, That at the time of Nonpayment, wick was 9 Eliz. he sent the Rent by his Servant, who was robbed of it, which when he knew, he paid the same the day afterwards, and the Queen accepted of it ; and further, That he continued the payment of his Rent till 3 Eliz. at which time the Queen sold the Reversion charged with the Lease, and therefore it was contrary to Equity and Good Conscience, that the Patentee should now avoid the Lease.

To which Bill the Defendant pleaded the Proceedings at Common Law, and Judgment thereupon.

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It was holden by all the Judges of England, and so Resolved in this Case, That though much Equity would have appeared to have been contained in the said Bill, if the Lessee had Complained thereof in the Court of Chancery before the Patentee had obtained Judgment at Common Law; yet having suffered Judgment to be had against him at Law, he comes too late to be Relieved in a Court of Equity. Whereupon the Defendaant in Chancery being brought to the King's Bench Bar by Habeas Corpus, the Court discharged him.

Where any Person is injured by Decree in Chancery, the best and only way to have Remedy is to Petition the King, and pray his Redress, as was done Mich. 43 Eliz. in Sir Moyle Finch and the Earl of Worcester's Case, where, by Feoffment, the Earl was seised (with others) to the use of the Lady Southampton, and preferred a Bill in Chancery (as Plaintiff on the behalf of the said Lady) against Sir Moyle Finch, concerning the Mannors of R. and S. C. upon which Bill it was Decreed for the said Earl; and Sir Moyle Finch, finding himself thereby agreev'd preferred his Petition to Queen Eliz. to be Redressed therein. who referred the whole Matter to the Judges, by whom the said Decree

Decree was Reversed, Vide Bulst. 3 part, 116. Vaudrey and Pannels Case.

See also Bulst. 2 part, 194. Heath and Ridleys Case ; Where an Action of Debt was brought upon the Statute of 13 Eliz. of Usury, in the King's Bench, upon which the Plaintiff had Judgment ; and the Defendant having day given him to Move in Arrest of Judgment, waved the same, and preferred his Bill in Chancery, and procured an Injunction thereupon to stay Execution ; notwithstanding which the Court Awarded Execution.

Note, It was then said by the Court, That any Person might Inform upon the Statutes of 27 Ed. 3. cap. 1. & 4 H. 4. cap. 23. against the Parties that procured such Injunctions to stay Judgments and Executions after Trials had at the Common Law ; because, by those Statutes, be it in a Plea Real, or Personal, after Judgment given, the Party ought to be quiet, and submit to it : For Judgments once given, in the King's Court, ought not to be avoided but by Error or Attaint.

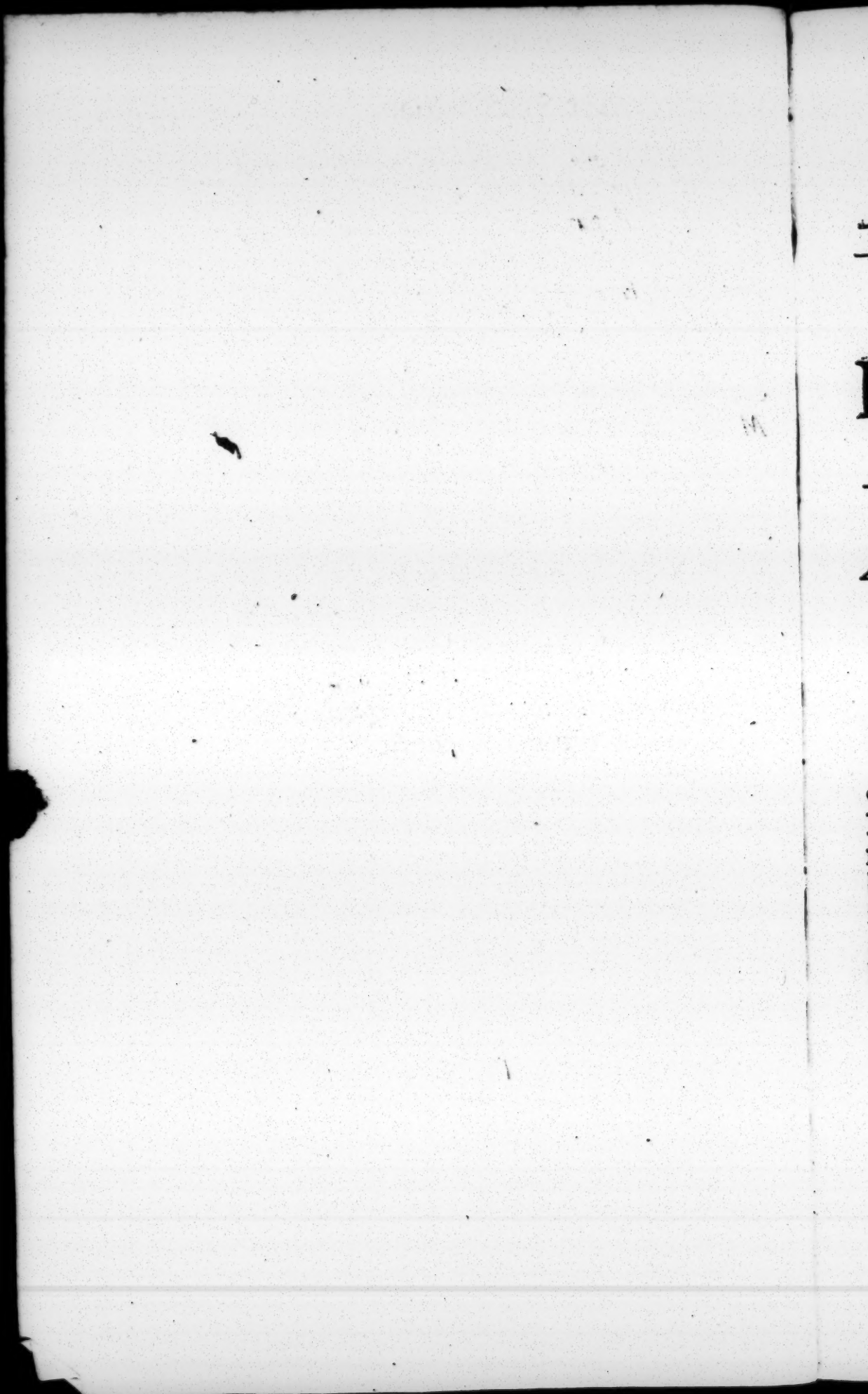
See likewise Bulst. 2 part, 197. Where observed by Coke Chief Justice, as a general Rule, and Maxim in Law, That if any Court of Equity doth intermeddle with Matters, properly determinable at Common Law,

Law, and which do concern matter of Freehold, they are to be Prohibited, for that, they draw the Matter there ad aliud Examen; and the same is also put in arbitrio unius Viri, and there Judgments are binding, upon which no Writ of Error, or Attaint lieth, and so the Party is without legal Remedy.

If in the Exchequer, or other Courts of Law, the Judges do Err in their Judgments, a Writ of Error doth lie; but after Judgment, or Decree given in a Court of Equity, the Party hath no Remedy (but in Parliament) because no Writ of Error, or Attaint lieth in such Case, notwithstanding the Judgment or Decree be Erroneous.

But see Croke's Jacobi, fol. 67. Woodlich and Mosleys Case, In an Audita Querela upon a Recognisance ad Comparend' in Canc' (Octab. Mich.) & stand' Juri in ea Parte, & ad prosequend' cum effectu, supposing the Recognisance to be void, and the Party found four Sureties, each of them bound in 200 l. to appear and answer, and stand to the Judgment of the Court accordingly. And upon this Surmise they were at Issue, and the Record was sent into the King's Bench, to be tried, and it was adjudged there that
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the Surmise was insufficient ; and because the Conusor did not render himself to Prison, and pay the Condemnation, a Scire Facias was brought upon the Recognisance ; and the Breach assigned was, because he paid not the Condemnation, nor rendered himself to Prison, Et sic non stetit Juri, &c. upon which it was Demurred. It was Moved the Breach was not well assigned, for here is no word, That he should render himself, or pay the Condemnation. But it was Resolved, That the Recognisance should be taken according to the Course of that Court ; and of the Course of Chancery, in such Case, other Courts ought to take notice : Wherefore it was adjudged, That the Breach was well Assigned, and Judgment was given accordingly.



BANKRUPTS.

An Affidavit upon a Petition and Commission on the Statutes of Bankrupts, to be made before a Master in Chancery.

J. P. of, &c. maketh Oath, That P. C. of, &c. in the County of *Middlesex*, Salefman, is truly and justly indebted to this Deponent (and others his Creditors) in the sum of 100 *l.* and upwards; and that he is become a Bankrupt, within the true meaning of one, or some of the Statutes made against Bankrupts, as this Deponent believeth.

J. P.

*Jurat (tali Die
& Anno) coram*

F. A.
C. H.
H. B.

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The Bond to be entred in to the Lord Chancellor, or Lord Keeper, upon suing out the Commission of Bankrupt.

NOverint universi p̄ p̄sentes Nos J. P. de, &c. & R. M. de &c. teneri & firmiter obligari p̄honorabili J. S. M̄i Domino Custodi Magni Sigilli Anglie, solvendi eis Domino Custodi aut suo certo Attornae Executorib⁹, Administrac vel Assignac suis Ad quam quidem solutionem bene & fidelic facienda Obligamus Nos & utrumq; nostrum Hered⁹ &c. Sigillis nostris sigillat, &c.

THe Condition of this Obligation is such, That if P. C. of, &c. in the County of M. S. be a Bankrupt within all or any the Statutes lately made against Bankrupts, according as the above-bound J. P. and R. M. by their humble Petition, exhibited to the above-named Lord Keeper, hath alledged: Then this Obligation to be void, or else to stand in full force.

A Bill preferred to the Lord Keeper to pray a Commission on the Statutes of Bankrupts.

HUmblly complaining, sheweth unto your Lordship your daily Orators *J. P. and R. M. Citiser and Drapers of London*, as well for themselves as for other Creditors of *P. C.* of, &c. Salesman; That whereas the said *P. C.* using and exercising the Trade of a Salesman, by way of bargain and exchange, bartering and chevifance, seeking his Trade of living by buying and selling, upon just and good cause for Wares and Merchandizes to him sold and delivered, and also for ready Mony to him lent; being indebted to your Orators and others his Creditors in divers and several sums of Mony, amounting in the whole to the sum of one Hundred Pounds and upwards: of late (that is to say) about the fifteenth of *February* instant did become Bankrupt within the several Statutes lately made against Bankrupts, to the intent to defraud and hinder your said Orators of their just Debts and duties to them due and owing (*viz.*) within the Statute made in the Parliament, begun and holden at *Westminster* the second day of *April*, in the thirteenth year of the Reign of our late Sovereign Lady Queen *Elizabeth* concerning Bankrupts; and within the Statute made in the Parliament begun and hol-

Bankrupts.

den at *Westminster* aforesaid the nineteenth day of *March*, in the first year of the Reign of our late Sovereign Lord King *James*, over *England*, *France* and *Ireland*, and of *Scotland* the thirty seventh, intituled *An Act for the better Relief of Creditors against such as shall become Bankrupts*; As also within the Statute made and begun in the Parliament holden at *Westminster* aforesaid, the nineteenth day of *February*, in the one and twentieth year of the Reign of our said late Sovereign Lord King *James*, of *England*, *France* and *Ireland*, and of *Scotland* the fifty seventh, Intituled *An Act for the further description of a Bankrupt, and Relief of Creditors against such as shall become Bankrupts*, or within some or one of them: In tender consideration whereof, may it please your Lordship to grant unto your Orators, their Majesties most Gracious Commission, to be directed to such, and so many wise, honest and discreet Persons as to your Lordship shall seem meet; authorizing them thereby, not only concerning the said Bankrupt his Body and Goods, Lands, and Tenements Freehold and Customary, but also concerning all other Persons, which by concealment, claim, or otherwise do, or shall offend, touching the Premises, or any part thereof, contrary to the true intent and meaning of the same Statutes, or any of them, to do and execute all and every thing and things whatsoever, as well for and towards satisfaction and payment of the said Creditors, as towards and for all other intents and
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purposes, according to the Ordinance and Provision of the same Statutes:

And your Orators shall ever pray, &c.

The Commission thereupon.

William and Mary, by the Grace of God of *England, Scotland, France and Ireland* King and Queen, Defenders of the Faith, &c. To our trusty and well-beloved *F. A. and C. H. Esquires, and B. H. J. W. and R. W. Gentlemen,* Greeting. Whereas we are informed, That *P. C. of, &c. Salesman,* using and exercising the Trade of Merchandize by way of Bargain, Exchange, Bartering and Chevisance, seeking his Trade and way of Living by Buying and Selling: About the fifteenth of *February* instant, did become Bankrupt within the several Statutes lately made against Bankrupts, to the intent to defraud and hinder *J. P. and R. M. Citizens and Drapers of London,* and other his Creditors, of the just Debts due and owing to them. We minding the due Execution as well of the Statute touching Orders for Bankrupts, in the Parliament begun and holden at *Westminster* the second day of *April,* in the thirteenth year of the Reign of *Elizabeth* late Queen of *England,* made and provided: As of the Statute made in the Parliament begun and holden at *Westminster* aforesaid, the nineteenth day of *March,* in the first year of the Reign of our late dear Grandfather, King *James,* of *England*

land, France and Ireland, and the of Scotland, thirty seventh Intituled, *An Act for the better Relief of Creditors against such as shall become Bankrupts*: As also of the Statute begun in the one and twentieth year of the Reign of our said late dear Grandfather, King James, of England, &c. begun and holden at Westminster aforesaid, and the fifty seventh of Scotland, Intituled, *An Act for the further description of a Bankrupt, and relief of the Creditors against such as shall become Bankrupts*. Upon trust of the Wisdoms, Fidelities, Diligence and Provident Circumspections which we have conceived in you, Do by these Presents, Name, Assign, Appoint, Constitute and Ordain you our Special Commissioners, giving full Power and Authority unto you five, or three of you, whereof you the said F. A. or C. H. to be one, according to the said Statutes, and every or any of them, not only concerning the said Bankrupt, his Body, Lands and Tenements Freehold and Customary, Goods, Debts, and other things whatsoever; but also concerning all other Persons, which by Concealment, Claim, and otherwise do, and shall offend touching the Premises, or any part thereof, contrary to the true intent and meaning of the same Statutes, To do and execute all and every thing and things whatsoever, for, and towards satisfaction and payment of the same Creditors, as towards, and for all other intents and purposes, according to the Ordinances and Provision of the same Statutes; Willing and Commanding

Bankrupts.

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ing you five, or three of you, whereof you the said *F. A.* or *C. H.* to be one, to proceed to the execution and accomplishment of this our Commission, according to the true intent and meaning of the same Statute, with all diligence and effect, as our special Trust is in you.

Witness Our Selves at *Westminster*, the
day of in the
year of our Reign.

The Form of the Oath to be Administred to
the Witnesses upon their Examination.

YOU are here produced as a Witness, by virtue of a Commission out of the High Court of Chancery, to us, and others directed, to be by us examined concerning the Bankruptcy of *P. C.* late of——&c. Now to such Questions and Interrogatories as shall be propounded and administred to you concerning the said *P. C.* his Trade or Profession, his Absconding, and other Acts which he hath done or suffered, by which he may be discovered to be a Bankrupt; and also concerning his Lands and Tenements, Goods and Chattels, Debts and Duties, Frauds and Concealments, and other matters and things in obedience to the said Commission, and pursuant to the several Statutes made concerning Bankrupts, you shall true and direct Answer make, and swear the Truth, the whole Truth, and nothing but the Truth, So help you God.

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The Form of an Oath for proving a Debt.

YOU shall swear that P. C. late of, &c. at the time of his becoming a Bankrupt, was justly, and Bona Fide indebted to you in the sum of _____ and that you have not since been any ways paid or satisfied for the same, or any part thereof.

Debts must be proved upon Oath by the Creditors, as followeth.

Let every man subscribe his Debt.

Be sure to observe and enquire if the Debts were contracted during the Trade.

A Warrant from the Commissioners for Witnesses.

WHereas the King and Queens Majesties Commission under the Great Seal of England, bearing date the, &c. last past at Westminster, grounded upon the several Statutes made concerning Bankrupts, hath been awarded against P. C. of &c. and directed to us, who have hereunto subscribed our Names, and put our Seals; and to J. W. &c. (here name the rest of the Commissioners) and we being the major part of the Commissioners therein named, having taken upon us the execution of the said Commission; and

and it appearing to us, upon good and sufficient proof, That the said *P. C.* hath for several years last past gained his living by buying and selling of Goods and Merchandises, and thereby became indebted to several persons in the sum of one hundred pounds and upwards; and whereas upon good and sufficient proof to us made, we have adjudged the said *P. C.* to be a Bankrupt to all intents and purposes, within the true intent and meaning of the said several Statutes made against Bankrupts, some, or one of them, before the suing forth of the said Commission. And whereas we are credibly informed, that you whose Names are here inserted, are necessary Witnesses for the discovery of the said *P. C.* and his Estate: These are therefore in their Majesties Names, and by virtue of the Statutes and Commission aforesaid, to Will, Require, Charge and Command you, and every of you, whose Names are here inserted; That you be, and personally appear before us, at the House of *D. E.* situate, &c. upon the day of this instant Month of by eight of the Clock of the same day; then, and there to Answer such Questions and Interrogatories as shall be then, and there demanded of you, and administered to you concerning the said *P. C.* and his Estate; whereof you are not to fail, under the penalties, in and by the said Acts provided against Contemners of the said Authority. Given, &c.

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Bankrupts.

Having served those Persons you intend for Witnesses with this, leave an Abstract of it in Writing with them severally. As thus,

A. B.

YOU are hereby summoned personally to be, and appear before the Commissioners, on the day of instant by eight of the Clock in the Forenoon, at the in S. in the County of, &c. concerning a Commission of Bankruptcy in prosecution against P. C. of, &c. And hereof you are not to fail at your peril. Dated, &c.

F. A.
C. H.
B. H.

A Warrant to Commit a Person to the Gaol who refuseth to be sworn, and to Answer Interrogatories.

WHereas their Majesties Commission under the Great Seal of England, bearing date the day of last past, at Westminster, grounded upon the several Statutes concerning Bankrupts, hath been awarded against P. C. of, &c. directed to us, who have hereunto put our Seals, and

and subscribed our Names, and to *J. W. &c.* and we being the major part of the Commissioners therein named, having taken upon us the execution of the same Commission; and it appearing to us upon good and sufficient proof, That the said *P. C.* hath for several years last past sought his livelihood by buying and selling of Goods And Merchandises, and thereby become indebted to several persons in the sum of one thousand pounds and upwards; and whereas upon good and sufficient proof to us made, we have adjudged the said *P. C.* a Bankrupt, to all intents and purposes, within the true intent and meaning of the said several Statutes made against Bankrupts, some, or one of them, before the Date, and suing forth of the same Commission; And whereas *J. S.* was suspected to have imbelled, concealed and secretly disposed of a great part of the Goods and Estate of the said *P. C.* and was duly summoned to appear before us; but hath made default in contempt of our Authority; but at length coming and appearing before us, we then sitting in execution of the said Commission, did obstinately refuse to be sworn, and make answer to such Interrogatories and Questions, as we, by virtue of the said Commission, required him to answer unto concerning the said *P. C.* and his Estate, according to the true meaning of the said Statutes, for the discovering the Estate of the said *P. C.* In contempt of the said Statutes, and of the Commission aforesaid, and the
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Authority thereby to us given. These are therefore to Will, Require and Authorize you, and every of you, immediately upon receipt hereof, to Apprehend, Arrest, and to take into your Custody the Body of the said J. S. and him safely to convey to their Majesties Gaol for the County of *Middlesex* and him there to deliver to the Keeper of the said Gaol, who is hereby Required and Authorized by virtue of the said Commission and Statutes aforesaid, to receive the said J. S. into his Custody, and him safely to keep and detain, without Bail or Mainprize, until he shall conform himself to our Authority, and be thence delivered by due course of Law. And for his, and your so doing, this shall be your sufficient Warrant. Given under our Hands and Seals, the day of, &c.

The Form of a Proclamation.

O Yes, Oyes, Oyes, the King and Queens Majesties do straitly Charge and Command P. C. late of that he on the day of this Instant, &c. do yield his Body before F. A. Esq; &c. their Majesties Commissioners, named and appointed for the execution of the Statutes of Bankrupts against the said P. C. or the major part of them that shall be then present at the House of D. E. &c. upon the Pains and Peril in the said Statutes in that Case made, provided and appointed.

God save the King and Queen.

A Bill to supersede a Commission granted against a Salesman upon the Statutes against Bankrupts, for that his Debts amounting to no more than 50 l. are not within the true meaning of any of the said Statutes.

*To the Right Honourable Sir John Somers,
Knight, Lord Keeper of the Great Seal
of England.*

MOST humbly sheweth unto your Good Lordship, your daily Orators P. C. of the Parish of St. Sepulchers in the County of *Middlesex*, Salesman, and H. P. of the said Parish and County, Corn-chandler, That your said Orator P. C. for divers years last past, did use and exercise the said Trade of a Salesman in the said County of *Middlesex*, and also had several dealings and tradings with divers Persons in several Counties within the Realm of *England* and Dominions thereof whereby; your Orator did gain to himself considerable profit and advantage, and a competent maintenance for himself and family, and lived very credibly in the reputation thereof. And your Orator P. C. further sheweth unto your Good Lordship, that amongst such as your Orator dealt with for Goods and Merchandises for the carrying on his said Trade, your Orator did particularly deal with J. P. and R. M. Citizens and Drapers of *London*, who furnished your Orator with several Goods
and

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and Merchandises, in their said way of Trade, and for which your Orator did pay and satisfie them, or for the greatest part thereof, after the same were delivered unto your Orator. And your said Orator P. C. further sheweth unto your Good Lordship, that some time before *Michaelmas*, which was in the Year of our Lord one Thousand six Hundred Ninety and one, the said J. P. and R. M. having by them in their said way of Trade, several Pieces and Parcels of Calicoes and other Manufactories called Flowred Peelings, as they distinguish the same unto yo^rr Orator, and being minded to part with the same, they sent in the same unto your Orator, without any particular agreement made with them by your Orator for the Rates and Prises thereof; And your Orator well hoped, that they would afterwards have applied themselves to your Orator to have agreed with your Orator for the Prises thereof, without troubling your Orator about the same with suits in Law, or other Molestations for the same; Your Orator having in all his dealings with them, precedent to such delivery, very faithfully and honestly paid and satisfied the said J. P. and R. M. for what Goods or Merchandises your Orator had bought of them, and in a very friendly manner hath by himself and others made frequent applications to the said J. P. and R. M. to obtain the Accounts with your Orator of such Monies as they had received of your Orator, and to pay them what was, or should be found justly due and owing

owing to them, or either of them from your Orator, which they on such your Orators applications, did very frequently promise to do accordingly, and your Orator had his dependance thereon. But now so it is, may it please your Good Lordship, that the said *J. P.* and *R. H.* combining and confederating themselves together, and entring into a Combination and Confederacy with divers others, and particularly with *S. D. F. A. C. H.* Elquires, *B. H. J. W.* and *R. W.* Gent. and persons unknown to your Orators, whose Names, when discovered, your Orator prays leave to insert their names into this your Orators Bill of Complaint, with apt words to charge them with such their Combination and Confederacy; They the said *J. P.* and *R. M.* in pursuance of such their Combination, endeavouring and maliciously contriving the ruin of your Orator and his Family, have refused to come to an Account with your Orator *P. C.* for such Goods and Merchandises as they have sold and delivered unto your said Orator, and for the Monies they have received, for, and towards satisfaction of the same, but have unjustly caused your Orator *P. C.* to be Arrested and Prosecuted with heavy and oppressive Actions for the same, and give out in Speeches, that forasmuch as your Orator is not able to defend himself against such their proceedings, they will ruin your Orator, and seise on all your Orators Goods and Credits. And for that purpose, and to the end the said Confederates may bring about

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about and compass such their designs and evil machinations, they have given out in Speeches, that your said Orator *P. C.* is become a Bankrupt within the intent and true meaning of the several Statutes made against Bankrupts, some, or one of them; and on such Grounds and Speeches as they have given out, and by a false and fraudulent suggestion, that your said Orator *P. C.* is indebted to them in great and considerable sums of Money, they have obtained from your Lordship their Majesties Commission under the Great Seal of *England*, (grounded on the said several Statutes made against Bankrupts) against your said Orator, and under colour thereof they have prevailed with the said *F. A. C. H. B. H. J. W.* and *R. W.* or some of them, Persons who are nominated by your Lordship as Commissioners therein, to assign unto them, or one of them, or some other in trust for them, or one of them, all your Orators Books of Account, Notes, Receipts, Bills of Parcels, Bonds and several Papers of Accounts, Goods, Chattels and Personal Estate, as well those which were in the possession of your Orator, as in trust for others: And as your Orators had given possession of part of your Orators House, and particularly the Goods and Chattels of your Orator, *H. P.* pretending them to be your Orator *P. C.*'s. and now prosecute your Orator *H. P.* in several Actions at Law for the said Goods, and other Goods, pretending them all to be the Goods of the said *P. C.* Whereas they well

well knew, that your said Orator P. C. had no interest or property, but a bare possession of the same, and although the said Goods and Chattels, which they have so seized and possessed themselves of, by virtue of such Assignment from the said Commissioners be of a very great and considerable value, the same being worth, to be sold, several hundred pounds; yet they to defeat and defraud your Orator of the same, give out in Speeches that the same are of little or no value, and such as will not pay or satisfy such their malicious and groundless Proceedings against your Orator in the charge and expence thereof, threatening not only to expose the same to sale by virtue of such their Authority, but they will also collect, and compound, and gather in all the rest of your Orator P. C's Effects, and will apply the same to the charge of Executing such Commission; and that they will not only charge the Person of your Orator with their pretended Debts, but they will so for ever disable your Orator from dealing and trading again in any thing whereby he may get a Livelihood for himself and Family, and by such their Oppressions they have caused your Orator to be committed Prisoner to the *Fleet*, whereas in truth the said Confederates do very well in their Consciences know, that these their violent Proceedings against your Orator P. C. are very unjust, unrighteous and contrary to Equity, your said Orator not being indebted to them, or either of them, but in a very small

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and inconsiderable sum of Mony, and such as is not within the compass, intent and true meaning of the said several Statutes made concerning Bankrupts for the obtaining a Commission thereupon; nor is your Orator become a Bankrupt within the intent or meaning of them, or either of them; but the said Commission hath been obtained from your Lordship by them the said Confederates or their Adherents upon evil and false surmises to your Lordship; your Orator *P. C.* not being indebted to them, or either of them upon a just and fair Account in more than the sum of fifty pounds, if what they give out in Speeches be true, or the Grounds and Pretences on which they have obtained the said Commission be examined (as in Justice and Equity they ought to be.) And forasmuch as such the Proceedings of the said Confederates cannot be staid or regulated, but by the Aid and Assistance of your Lordship in this High and Honourable Court; and if they be proceeded in, will tend to the utter ruin of your Orator *P. C.* and he is rendred remediless at the Common Law: To the end therefore that your Orator may be relieved in all and singular the said Premisses, and that the said Commission of Bankrupt may be superseded upon a just and fair Account to be made between your Orator *P. C.* and the said Confederates *J. P.* and *R. M.* and all proceedings at Law against your said Orator staid till the stating and settling the said Account; and that your Orators may have a
true

true and just Account of all the Books of Account, Notes, Receipts, Bills of Parcels, Bonds and all Papers of Accounts, Goods, Chattels, Rights and Credits; which they the said Confederates have seised, received, had or taken by virtue of the said Commission, or any Agreement or Proceedings thereon: And that the said Confederates, *F. A. C. H. B. H. J. W. and R. W. J. P.* and *R. M.* may make restitution of the same unto your Orators, together with a satisfaction for such their undue, illegal and unjust proceedings against your Orator *P. C.* as to the said Commission and the proceedings thereon. And that the said Confederates, to the end your Orator may be the better enabled to obtain a Superfedeas on the said Commission, may upon their Corporal Oaths set forth and discover in what Sum or Sums of Mony your Orator *P. C.* was *bona fide* indebted to them, or either of them at *Michaelmas* now last past, or at any time before their, or either of their suing forth the said Commission, and how, and for what the same became due or owing to them; and may also give a just and true Account of all such Monies as they, or either of them have at any time or times received of your Orator, and for what, and may come to a fair Account with your Orator; and that the said *J. P.* may set forth and discover in what manner the said last mentioned Goods came to your Orator, and the true values thereof; and whether the same were not damnified Goods at the time they

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were so delivered unto your Orator or his use, or what Contract or Agreement your Orator made with them, or either of them for the same, and when; and that they may set forth the date of the said Commission so obtained against your Orator *P. C.* and who are the Commissioners nominated in the same, and where they live, and by what Authority they seized on your Orators said Goods, and what sales and disposals they have made thereof, and to whom, and for what values: And that they the said Confederates may upon their Oaths discover upon what Grounds or Facts they proceeded to make your Orator *P. C.* a Bankrupt within the said Statutes, with the times of such facts committed, and the natures thereof, and who are the Witnesses to the same, and where they live and may be found. And that the said *J. P.* may set forth and discover whether he did not come to an Account with your Orator *P. C.*'s Wife for what Mony was due and owing to him in the year 1688. and whether your Orator *P. C.* together with *B. H.* did not jointly or severally become bound in several Bonds to him the said *J. P.* for what was then due to him; and that he may set forth in how many Bonds they, or either of them became bound unto him the said *J. P.* and in what sums of Mony, and when payable; and if he hath not received all the monies due on the said Bonds; and that he may particularly answer, whether the first of the said Bonds became not due and payable
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in or about *April* 1688. or the latter end of *March* preceeding; and the last Bond payable in *March* or *April* in the year 1689. or at any other time, and when: And that the said Confederates may set forth whether they, some, or one of them, or some other for their use, or with their privity, have not in their Custody the said several Bonds or Obligations, which they took at the time they seised on your Orators said Goods. And that the said *J. P.* may set forth whether he did not in or about *March* 1690. or at some other time come to your Orator *P. C's* Wife, and prevail with her to trade and deal further with him the said *P.* And that he may set forth, whether he did not on such prevailing with her, send unto your Orators Wife the several Calicoes and Peelings, for which he now pretends your said Orator to be indebted to him, without any Bargain or Contract made for the Prices of the same, and whether he did not send them in for good and sound Goods, and so charged the Prices thereof: And whether the said *P.* or some Person or Persons, by his Order, did not cause the said Peelings to be dyed of several Colours after they came to his Hands or Custody, or any, and what parcel of them; and may also set forth the time or times when he sent in the same to your Orator: And that he may set forth and discover whether some Person from your Orator *P. C.* and on his behalf did not bring back to him the said *J. P.* several Parcels of the said Goods

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so delivered and sent in, and complain that they were damaged Goods; and whether he did not refuse to receive the same, telling the said Person who so brought them, that if your Orators Wife would dispose thereof, he would allow for their damage, or to that effect: And that he may set forth and discover, whether when your Orator desired him to come to an Account for the said Goods, and to allow for the said damaged Goods, he did not refuse the same; and threatened to ruin your said Orator P. C. and his Family if he would not pay his own Rates for the said Goods; and whether he did, notwithstanding your Orator offered to come to such a fair Account, cause your Orator to be Arrested and run into Prison for the same, refusing to accept of sufficient Bail on such Arrest, though the said P. at the time of your Orators Arrest proffered to take either of the said Persons bound for the Debts, but absolutely refused to take their Bail to the Account. And that the said Defendant S. D. may set forth, whether twenty four shillings apiece for the said flowred Peelings were the prices of damaged Goods, at the time when they were sent or delivered to your Orator C. or his Wife. And that the said G. D. may set forth and discover in what sum or sums of Mony your Orator P. C. was indebted to the said R. M. in the beginning of *June*, in the year 1690. and for what, and what Goods or Merchandises the said G. D. delivered to your Orator on Account of or for the said M. before

before the foresaid Month of *June* 1690. and how he came to have the knowledge thereof; and whether he was privy to the delivery, sale or contract of, or for any Goods for which your said Orators became so indebted to the said *M.* And that he may set forth and discover what Goods he the said *D.* delivered to your Orator or his Wife, or sent in to them, or either of them since *June* 1690. and the particular times when, and the particular of such Goods, and whether the same were so delivered on Credit, or paid for. And that the said *R. M.* may set forth and discover in what sum and sums of Mony your Orator *P. C.* was indebted unto him in the Month of *June* 1690. And what Goods your said Orator or his Wife have had since that time, the times when, and the particulars of such Goods, and the prices thereof. And that the said *R. M.* may set forth and discover whether he did not inform your Orator *P. C.*'s Wife, that the other Defendant *P.* informed him the said Defendant *M.* that the said flowred Peelings were good and sound Goods, and as they came to him the said *P.* from beyond the Seas, and not Coloured, Dyed nor Damaged when they were sent or delivered unto your Orator. And that the said *S. D.* may set forth and discover what Mony he the said *D.* hath at any time or times received of your Orator *P. C.* or his Wife since *March*, in the year 1690. for the use of the said *J. P.* And that the said *S. D.* may set forth and

discover what he knows touching the matters aforefaid in this your Orators Bill, and may particularly answer to all the values of the faid laft mentioned Goods, and the delivery thereof, and what condition the faid Goods of the faid J. P. were in at the time of their delivery ; and whether the fame were not damaged Goods, and in refpect thereof of fmall value: And that all and every the faid Confederates may alfo fet forth and discover what Books of Account, Notes, Bonds, Receipts, Bills of Parcels or other Papers of Accounts have come to their, or either of their Hands or Cufody that belonged to your Orator, and in whole Cufody they now are ; and may fet forth the Dates and Contents thereof. And that your Orators may upon a full difcovery of the whole matter charged in this your Orators Bill, be relieved according to Equity. May it please your Lordships to grant unto your Orators their Majefties moft Gracious Writ or Writs of Subpœna to be deliverd to the faid F. A. C. H. B. H. J. W. R. W. J. P. R. M. G. D. and S. D. and fuch other of the Confederates, when difcovered, thereby ftrictly charging and commanding them at a certain Day, and under a certain Pain, therein to be limited, personally to be and appear before your Lordships in this High and Honourable Court, then, and there upon their feveral and refpective Corporal Oaths true Answer to make to all and fingular the Premiffes. And that they the faid Confederates may abide fuch
Order

Charitable Uses.

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Order and Decree therein as to your Lordships shall seem meet and agreeable to Equity and Good Conscience. And your Orators shall ever pray, &c.

Tho. Pudsey.

Charitable Uses.

Exceptions taken to a Decree, made on an Inquisition mentioned therein, taken by Commissioners, pursuant to the Statute of 43 Eliz. concerning Charitable Uses.

EXceptions taken by *W. H. J. K. W. C. R. H. Gent' W. B. J. H. C. H. J. H. J. P. T. B. C. H. Sen' and W. H. Jun'* to the Decree dated the 13th day of January, in the 15th year of the Reign of our Lord and Lady, *William and Mary*, by the Grace of God, of *England, Scotland, France and Ireland*, King and Queen, Defenders of the Faith, &c. and which is mentioned to be made at C. on the Inquisition therein mentioned, by *Sir. C. H. Baronet. W. C. Doctor of Laws, J. C. and C. R. Doctors in Divinity, and G. W. Esq; W. L. Jun' T. D. Esq; T. D. and J. J. Gentlemen,* Commissioners (amongst others) appointed to enquire upon the Statute of Charitable Uses, made in the forty third year of the
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Charitable Uses.

Reign of Queen *Elizabeth* : By which said Decree the said Commissioners have Decreed, That the said Exceptants (the present Feoffees of the Lands and Hereditaments, Given and Devise by the Last Will and Testament of *W. S.* deceased, to, and for the Uses in the said Will mentioned, with *T.H.* and *J.B.* who are long since dead, should within one Month, next after notice of the said Decree, make a Deed of Feoffment, or Conveyance, of the said Lands and Premises, to the fifteen Persons in the said Decree named, whereof the before named Commissioners *G.W. W. L.* and *T.D.* are three; And that when the greatest number of them the said New Feoffees are dead, the Survivors should make a New Feoffment of the said Premises to two such Persons, as they should choose, who should Enfeoff such others as should be named, and appointed to them by the Vicar of *H.* and the Owner of the *Chauntrey Lands*, for the Time being. And that these Exceptants, and the said *T. H.* and *J. B.* deceased, should within one Month, next after notice of the said Decree, pay unto the said Persons named for New Feoffees, the sum of seventy pounds, thereby pretended to have been misemployed by the said *Exceptants*, and the said *T. H.* and *J. B.* and the sum of nineteen pounds nineteen shillings and five pence half penny remaining in their hands. And that, upon Receipt of the said Mony, twenty pounds should be laid up for a Stock; and for the rest of the Rents and Profits

Profits of the Premises, then after to be received, the said New Feoffees, for the Receiving thereof, should choose and appoint a *Bailiff*, on his security to the new Feoffees, to make a true and just Account thereof unto them once a year; And if he should not truly discharge his Office, then the said New Feoffees should put him out, and choose another whom they should approve of. And that these Exceptants, with the said *T. H.* and *J. B.* at the time of the Feoffment to the New Feoffees should deliver unto the said New Feoffees all such Deeds, Writings and Books of Account, as belong to, or concern any of the said Premises; And that in every Lease hereafter to be made of the said Premises, or any part thereof, by the Feoffees for the time being, there should be reserved the true yearly value thereof. And that no Lease, hereafter to be made of the Premises, should be made but in Possession, and not to exceed one and twenty years, after making of the same; as by the said Decree may appear.

To which said Decree the said Exceptants do Except.

First Exception.

That the Decree is founded upon a Suggestion, That the Exceptants (with others since dead) did Misemploy in general certain Monies received by them, on account of the Donors Charity; without assigning in particular, wherein, or for what.

First, For that the said Commissioners have thereby *Adjudged*, and *Decreed* that these *Exceptants* with the said *T. H.* and *J. B.* who died about three years since, should pay the said seventy pounds, thereby intended, in general, to be *misemployed* by these *Exceptants*, without *shewing*, or *setting forth* either in or by the said *Decree*, or the *Inquisition* therein mentioned, any thing in particular, or any one particular wherein, or whereby any such pretended *Misemployment* was, or is; and which *Suggestion* of a *Misemployment* in general, without assigning in particular wherein, or for what it was, neither can, or ought to be, any *Ground*, or *Warrant* for any such *Decree*, or to charge these *Exceptants*; Neither can these *Exceptants*, or any Person, or Persons, against whom such *Decree* is, or shall be made, make any *Defence* against, or *Free*, or *Acquit* themselves, or Except against the same; at least in particular, there being no particular *Head*, or *Item*, whereon to make the same; And whereon these *Exceptants* do

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Rely and Insist, and (under favour) ought to be *discharged* of, and from the same, without any further *Defence*, or *Exception*; Though they have really and truly *laid out*, and *expended*, all the *Monies* they ever *received* on *account* of the said *W. S.* his said *Charity-Will* and *Devise*, according to the said *Will*, and which, if requisite, they can fully make appear; and which also doth, and will so appear by their *Books* of their *Accounts* thereof, which some of the said *Commissioners*, to whom they produced the same, or their *Clerks*, or *A. S. Esq;* that *Prosecuted* the said *Decree*, to bring some of the *Lands* in his and his *Tenants Occupation* within the benefit of the said *Donors* said *Will*, which doth expressly *Except* and *Exclude* the same, have, or hath in their, or one of their *Hands* and *Custody*, and refuse to deliver the same to these *Exceptants*, whose *Property*, *Evidence* and *Voucher* the same is. And there being no *misemployment*, at least in particular appearing by the said *Decree* to be in these *Exceptants*, nor in truth was, these *Exceptants* ought not to make any new *Feoffment* thereof, at least until their number be reduced to five, as the said *Donor* by his *Will*, and the *Decree*, herein after mentioned, appointed.

Second Exception.

That this last Decree is as well contradictory to the Donors Will, as to a Decree made concerning his Charity thereby given, 20 Jan. 1640.

THE said Exceptants also Except against the said Decree, for that as well the Donors said Will appointed, as by a Decree heretofore (that is to say) on the three and twentieth day of *January*, in the year of our Lord 1640. then made on a Commission for Charitable Uses on the said Statute, by *R. F. E. C. C. R.* and *J. T.* and returned into, and remaining in this Court; Whereby it was Decreed, That the old Feoffees, of, and for the said Donors Gift, when their number was reduced to five, should make a new Feoffment, and not before; as, thereby may appear. And these Exceptants being twelve in all, ought not to have the said Trust taken from them, the said Former Decree, as well as the said Will having so established the same, as aforesaid, and which neither can, nor ought to be altered by a second Decree, on a Commission upon the said Statute for Charitable Uses; though now by this last Decree so sought for to be Decreed, as for the other things which were by the said former Decree decreed, and which, if admitted, would be endless, and introduce a way for one Decree to alter a former on the

the same Statute, which ought not to be done on a Commission for Charitable Uses.

Third Exception.

That the Exceptants are falsely charged by the last Decree, with having several sums of Mony in their hands, arising from the Revenue of the Donors Charity; when as they have laid out all but 19 l. &c. according to the Direction of the Decree made in 1640.

THE said Exceptants do likewise Except against the said Decree, for that these Exceptants have none of the Mony, or Revenues of the said Lands and Tenements, given by the said Will, in their hands, except the said 19 l. 19 s. and 5 d. ob. but have laid out the same, and, in manner, as all their Predecessors have done, ever since, and before, the said first Decree was made; which found no fault therewith, nor was there any reason for them so to have done: And yet the said now last Decree hath decreed the same, and the Exceptants to pay the said 70 l. when as they have no part thereof in their hands; and if they had any, they humbly conceive, and are advised, that so much thereof, as relates to Taxes and Subsidies, is not within the said Statute; neither ought the said last Decree to have made three of the said Commissioners to be New Feoffees, as it hath done.

Fourth

Fourth Exception.

That the last Decree is mentioned to be made at C. in Jan. 1693. by seven Persons, one of whom was not present, nor none of the Commissioners, that by the Body of the Decree is mentioned to make the same, or to join in the making thereof: And that others of the said Commissioners that were present at the Hearing and Debating of the Matters on which the said Decree was made, did refuse to join in the making of the same.

THE said Exceptants do also Except against the said Decree, for that it is thereby mentioned in and by the Body thereof to be made at C. on the 13th day of January 1693. by the said Sir C. H. W. C. J. C. C. R. G. W. W. L. junior, T. D. T. D. and J. J. Whereas it is only signed and sealed by the said Sir C. H. W. C. C. R. G. W. W. L. and T. D. and by the said Bishop of E. who, as well as many others of the said Commissioners that so signed and sealed the said Decree, were not present at C. aforesaid, on the said 13th day of January last past; And many others of the said Commissioners that heard, and were present at the hearing, and debating of the Matters on which the said Decree was made, declined, and refused to join in the making the said Decree; And many of those aforesaid that signed the same, were obtained by the Pro-
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secutor or Prosecutors thereof, to sign the same singly, and after the said 13th day of *January* last past; And the said Lord Bishop of *E.* that so signed the same, as aforesaid, is none of the Commissioners, that by the Body of the said Decree, is named or mentioned, to make the same, or to join in the making thereof.

Conclusion of the Exceptions.

WHerefore, and for the Reasons, and upon the Grounds aforesaid, these Exceptants do Except against the said last Decree; and humbly pray that the same may be Reversed and Discharged; And that the said New Pretended Feoffees therein named, may upon Notice hereof Appear in this Court, and Answer the Premises; And shew Cause, if they can, why the said Decree should not be Reversed and Discharged:

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Answer.

Answer to the Exceptions.

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THE Answer of *A. S. Esquire Respondent* to the *Exceptions* taken by *W. H. J. K. W. C. R. H. Gent. W. B. J. H. C. H. J. H. J. P. T. B. C. H. Senior, and W. H. Junior*, to the Decree dated the 13th day of *January* in the Fifth Year of their now *Majesties* Reign, made at *C.* on the Inquisition therein mentioned by *Sir C. H. Baronet, W. C. Doctor of Laws, J. C. and C. R. Doctors in Divinity, and G. W. Esquire, W. L. Junior, T. D. Esquire, T. D. and J. J. Gentlemen Commissioners* (amongst others) appointed to enquire upon the Statute of *Charitable Uses*, made in the three and fortieth year of the Reign of *Queen Elizabeth*; By which Decree the said *Commissioners* have Decreed, That the *present Feoffees*, in the said Decree named, shall within one Month next after Notice of the said Decree, make a Deed of Feoffment, or some other reasonable Conveyance, as by Counsel shall be devised, of the Lands and Premises in the said Decree mentioned, unto *G. W.* and fourteen other Persons in the said Decree named, being all of them good men, and free of Birth; Which said New Feoffees shall stand, and be seised of the said Tenements and Premises, to such Uses, In-

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rents and Purposes, as are appointed by the Will of *W. S.* in the said Decree named. And that when the greater part of the New Feoffees shall be dead, Those who survive shall make a New Feoffment of the said Lands and Tenements to two such persons as they shall choose, who shall Enfeoff such others as shall be named and appointed to them by the Vicar of *H.* and the Owner of the Chauntrey Lands for the time being, as by the said Will of the said *W. S.* is directed. And also that the said *Old Feoffees* shall, within the like time of one Month next after Notice of the said Decree, pay or cause to be paid unto the said New Feoffees thereby appointed, the sum of 70 *l.* by them misapplied, as by the Jurors is found; And also the sum of 19 *l.* 19 *s.* 5 *d.* *ob.* according to their own Accounts remaining in their hands. And that upon the Receipt of the said sums of Mony by the New Feoffees there shall be the sum of 20 *l.* laid up for a Stock according to the Direction of the said Will, not to be Expended, unless great necessity required it; And for the rest of the Rents and Profits of the said Lands which hereafter shall be yearly received, the said Commissioners did further Order and Decree, that immediately after the Feoffments shall be made to the said New Feoffees, as aforesaid; That the said New Feoffees shall choose and appoint a Bailiff, or Rent-gatherer to receive and gather the Rents, Issues and Profits of the said Premises, who shall put in security to the said Feoffees to

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make a true and just Account, once every year, of the Rents and Monies by him to be received, to the said Feoffees; And if the said Bailiff, so chosen, shall not truly and faithfully discharge his Office, That then the said Feoffees shall put him out, and choose another, whom they shall approve of, to be Bailiff in his stead. And it is further Decreed by the said Commissioners, that the said Old Feoffees shall, at the time of the said Feoffment made unto the said New Feoffees, as aforesaid, Deliver up unto the said New Feoffees all such Deeds, Evidences, Writings and Books of Account, as belong to, or concern, any of the said Lands, Tenements and Premises. And that in every Lease thereafter to be made of the said Mesuage, or Tenement and Premises or any of them, by the said Feoffees for the time being, there shall be reserved the true yearly value thereof. And that no Lease, thereafter to be made of the said Premises, shall be made but in possession, and not to exceed 21 years after the making of the same: as by the said Decree may appear. And this *Respondent* saith, That the said Exceptants being duly served with the said Decree, under Seal of this Honourable Court, did not perform the same, but for Delay have put in Exceptions thereunto, which this Respondent hopes this Honourable Court will not Countenance, but will Consider of Costs to be paid by the said Exceptants in respect thereof.

Answer

Answer to the first Exception.

AND as to the said Exceptants first Exception taken to the said Decree, this Respondent saith, That the said Exceptants being summoned to appear before the said Commissioners, before the Inquisition was taken, upon which the said Decree is grounded; and appearing, and having produced their Books of Account touching their Receipts, and employing of the Charity in the said Decree mentioned, and having delivered in a Schedule in Writing of their Disbursements; This Respondent did, on the behalf of the Poor of *H.* and others concerned in the said Charity, Except to several Particular Sums in the said Account mentioned, as having been misapplied, and misemployed by the said Exceptants, contrary to the Will of the said *W. S.* the Particulars whereof amount to in the whole the sum of 110 *l.* 2 *s.* 2 *d.* and are set down, and mentioned in the Schedule hereunto annexed, intituled *the first Schedule*; The said Particulars relating only to the Account of the said Exceptants, for the several years, from the 20th day of *April* 1685. And upon hearing of the said Exceptants, and their Council touching the said Account, and the said Particular Items in the said Schedule hereunto annexed mentioned, touching which Items this Respondent did Object, before the said Commissioners, that those sums had been misemployed by the said Exceptants; The said Commissioners after hearing and

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examining the same, were satisfied, That the several Items, or Sums, in the other Schedule hereunto annexed, intituled the second Schedule, amounting to 70 *l.* 8 *s.* 3 *d.* being part of the Items in the said first Schedule mentioned, were misemployed by the said Exceptants; And thereupon the Jurors impanelled, and sworn to enquire, and find the matter touching the said Charity, did, after hearing the Evidence on both sides, find, upon view of the said Exceptants Books, and Consideration had of the aforesaid Items, That the said Trust was apparently broken, and that the said Feoffees had, within eight years then last past, misemployed 70 *l.* of the said Monies, contrary to the intent and meaning of the said Donor, being the Items and Particulars in the said second Schedule, hereunto annexed, mentioned. And the said Jurors found, That, for two years then last past, the said Exceptants had Let and Demised the said Estate at four pounds by the year less than the value, and that over and above the said 70 *l.* misemployed, and the said Estate so let at such under-rent, as aforesaid, the said Exceptants had, according to their own Accounts, remaining in their hands *Micha-*
elmas 1692. 19 *l.* 19 *s.* 5 *d.* ob. as by the said Inquisition may appear. And the said Commissioners, having heard the said Exceptants and their Council touching the Premises, did make such Decree, as aforesaid. But this *Respondent* is advised, and doth insist, That all the said Items and Sums,

Sums, in the said first Schedule mentioned, were misemployed by the said Exceptants, contrary to the intent of the said Donor, and the whole Sum of 110*l.* 2*s.* 2*d.* being the Amount of all the said Items in said second Schedule mentioned, ought to have been found by the said Jurors, as misemployed by the said Exceptants, and ought to have been Decreed by the said Commissioners to be paid by the said Exceptants, as also several other Sums by them misemployed for divers years before the said 20*th* of April 1685. And this Respondent humbly abides in the Judgment of this Honourable Court touching the same, and humbly prays that the said Exceptants may be charged with, and Decreed to pay the said sum of 110*l.* 2*s.* 2*d.* and may also account for such other Monies as by them have been misemployed for divers years before the said 20*th* of April 1685. And this Respondent saith, That as touching the sum of 6*l.* by the said Exceptants pretended to be paid yearly to a Woman for Teaching Children in *H.* it appears to be the more unjustly misemployed by the said Exceptants, not only contrary to the intent of the said Donor, but for that there is another Charity of 20*l.* *per Annum* given to maintain a Schoolmaster to teach Children there, in which Charity three of the said Exceptants, *viz.* R. H. J. H. and C. H. Senior are Trustees, but have also misemployed that Charity for divers years; All which this Respondent humbly submits to the Judgment

ment and Consideration of this Honourable Court. And this Respondent is advised, That the said Exceptants having been so heard by themselves and their Counsel, both by the said Commissioners and the said Jurors, touching the Premises, and the said Jurors having found the matter as aforesaid, the said Commissioners had just Cause to make such Decree, as aforesaid; And that the same is, for so much as is Decreed, well made, and grounded, without setting forth the Particulars wherein or whereby the said Misemployment was made, otherwise than as aforesaid. And the said Inquisition being taken upon such Proceedings, as aforesaid, was, and is a sufficient Ground, or Warrant for such Decree to charge the said Exceptants, as this Respondent is advised. And if the said Exceptants can justifie, That their employing the said Monies by them received, and in their Accounts mentioned to be disbursed, was so disbursed according and pursuant to the intent of the said Donor, They may thereby make a sufficient Defence, and free and acquit themselves, but not otherwise. And though the said Exceptants do pretend, That they have really and truly laid out and expended all the Monies they ever received on Account of the said W. S. his said Charity-Will and Devise, and which, as they pretend, they can, if requisite, fully make appear; and which, as they pretend, appears by the Book of their Accounts: Yet this Respondent saith, That the said Lands were underlet

6*l. per Annum* less than they were formerly let for, and there was no reason for any Abatement; and in truth the several Items, in the Schedule hereunto annexed, mentioned, which are taken out of the said Book, were not employed in the performance of the said Charity, nor according to the Will and Devise of the said *W. S.* the Donor. And the said Jurors did upon good Ground, as this Respondent is advised, find the said Trust broken; and that the said Exceptants had misemployed 70*l.* of the said Charity-mony received by the said Exceptants. And this Respondent doth acknowledge the said Decree to have the Donors Will performed, as near as may be, but not for any such sinister intent, or purpose, as by the said Exception is suggested. And this Respondent doth deny, that he, or any of the said Commissioners, or their Clerks, have the said Book of Accounts in their Hands or Custody; or that they refused to deliver the same to the said Exceptants. But this Respondent doth Aver, That the said Book, and all other the said Exceptants Books, produced before the said Commissioners, were delivered by the said Commissioners Clerk to the Exceptant *R. H.* in this Respondents sight, and presence. And it having been found, as aforesaid, That the said Trust was broken, and that the said 70*l.* was misemployed, as aforesaid, and such other Breach of Trust, as aforesaid, the said Commissioners had good reason and ground, as this Respondent is advised,
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to Decree such New Feoffment, as afore-
said, to be made; and the said Exceptants
ought to have made the same, notwith-
standing their number is not yet reduced to
five, a Breach of Trust appearing in the
said Trustees. And this Respondent doth
believe, that *T. H.* and *J. B.* died about
the time in the said Exception mentioned;
But this Respondent insists, that the same
is not material to Invalidate the said De-
cree.

Answer to the second Exception.

AS to the said Exceptants second Ex-
ception taken to the said Decree this
Respondent saith, That the said *W. S.* did
by his Will direct, that after the death of
Margaret his Wife, and of his Son *W. M.*
the then Feoffees, or some of them, by the
Advilement and Request of the Vicar, and
Chauntrey Priest in the said Will mention-
ed, should make a New Deed of Feoff-
ment unto twelve honest, lawful and trusty
men, or more, being of good Name and
free of Birth, to be named and chosen in
the said Town of *H.* or in other Towns
next adjoining to the same, of, and in all and
singular the Lands, Tenements and Pre-
misses, in the said Will mentioned, with
their Appurtenances, to hold to them and
their Heirs for ever. And that he did fur-
ther Direct in and by his said Will, That
at what time seven, or more to the less
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number should be deceased, They that were alive should make a Deed in Feesimple of the said Lands, Tenements and Premisses with their Appurtenances unto two Priests, or unto two other honest men of good Fame, Freemen born, with two Priests or two honest Laymen, after peaceable Possession, Livery and Seisin taken, should make a New Deed unto the same Feoffors, and to others with them new chosen, being honest men, credible, of good fame, and Freemen born, To have and to hold to them and their Assigns. And further Willed, That the Order by him made, and prescribed by his said Will, should be observed, and kept always from time to time, in choosing and naming New Feoffees, when the most part of the Old should be deceased; And he further Directed by the said Will, That the New-chosen Feoffees shall always, first, and before they meddle with the said Lands and Tenements with the Appurtenances, give an Oath, and Corporally swear before the Vicar and Chauntrey Priest of the Assumption, with the consent of the Elder Feoffees, That they, and every of them, unto their Power, without Covin, Fraud or Deceit, shall keep and observe all the Contents of his said Will; And that they, nor any of them, shall not Turn, Expend, or Bestow any Issues, Profits, Rents, or Mony arising, increasing, coming, or growing out of the said Lands and Premisses, to their own Uses or Profits; And that they for their time, shall not lay to Pledge, Mortgage, nor
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Alienate any Parcel or Portion of the same, or any Thing thereto pertaining, as by the said Will appeareth. And this Respondent further saith, That he believes, that before the year of our Lord 1640. great Abuses, and Misemployment had been made and done touching the said Charity; And that there was a Decree made touching the same, on or about the 23th day of *January* 1640. as by the said Exceptions is set forth: But it appears by the Record thereof, that the same was delivered in to this Honourable Court without any Commission: And this Respondent upon search finds, that Exceptions were taken and filed to that Decree, and that the same proceeded no further, nor was the same since performed, as this Respondent believeth. But this Respondent finds thereby, that it was Ordered by the Persons named therein to be Commissioners, that whensoever the greater part of the Feoffees are dead, those who survive shall make New Feoffments of the said Lands and Tenements to two such Persons as they shall choose, who shall enfeoff such others as shall be named and appointed to them by the Vicar of *H.* for the time being and the present Owner of the Chauntry Lands in *H.* according as is appointed by the said Will: But the said Order or Decree is misrecited in the said Exception, for it doth not Decree that the Old Feoffees of and for the said Donors Gift, when their number was reduced to five, should make a New Feoffment, and not before, as this Respondent

spondent believeth. But this Respondent saith, That the Commissioners for Charitable Uses, or this Court, may, upon good reason appearing to them, either for breach of Trust, or for negligence of Feoffees in a Charity, or for misemployment of the Charity, all which in this Case to the said Commissioners and Jurors did appear, order New Feoffees to be appointed, and a New Feoffment to be made; And the Commissioners in the Decree against the said Exceptants have, for very good reasons appearing by the said Inquisition and Decree against the said Exceptants, ordered a New Feoffment to be made, which the said Exceptants ought to make, as this Respondent is advised; And that there is nothing in the said Will, or the said pretended former Decree, which doth or can restrain the said New Commissioners from decreeing the same; And the like Decree may be made hereafter if occasion be, and just cause appear for the same; and the same is so far from being Inconvenient or Endless, that it is very convenient that unfaithful Feoffees should from time to time be removed, and New Feoffees appointed, and a New Feoffment be decreed on a Commission for Charitable Uses, as the Case shall happen.

Answer

Answer to the third Exception.

AS to the third Exception taken by the said Exceptants to the said Decree, this Respondent saith, That it appears by the said Inquisition and Decree, That the said Exceptants have misemployed 70*l.* of the said Charity-mony, in the time in the said Decree mentioned, as is before mentioned, and consequently they ought to be charged therewith, as if they had the same in their hands; And as to the said Exceptants pretence, That they have laid out the said Charity-mony in manner as all their Predecessors have done, ever since, and before the said pretended first Decree was made, which, as is pretended, found no fault therewith; This Respondent saith, That he hopes this Honourable Court will not think it any good Justification for the said Exceptants, that they have followed the Example of their Predecessors in Breach of Trust and Misemployment of the said Charity-mony, which, if admitted, would let in a Colour to destroy all Charities, and frustrate the intents of all Donors of Charities. But this Respondent doth not know what the said Exceptants, their Predecessors, did in the Matter by the said Exceptants alledged, nor doth believe they did so, nor is he willing to rake into their Ashes, the matter in question not relating to them, or their doings, but to the proper Actions and Misapplications

tions of the said Exceptants, for some of the time of their Management of the said Trust; And if the said Commissioners had inquired more backwards, this Respondent is well assured much more Money would be found to be misapplied by the said Exceptants. And as to the management of the said Charity before the said former Decree, it appears by the same, That great Abuses and Misemployment of the said Charity appeared to be made before the Commissioners named in that Decree, which Abuses the said Exceptants would now have allowed as Precedents or Examples for them to follow. And this Respondent further saith, That the said *W. S.* by his said Will directs, That after the Decease of his Wife, her Son, and his only Heir by him lawfully begotten, the residue of all the Issues, Profits and Rents coming of the Premises, save what he had before Willed to be disposed and done, the Feoffees should yearly receive of the Bailiff in the said Will mentioned, to the Relief, Help and Profit of the said Church of *H.* to Profit of the Commons of that Town, and to other Works of Charity; And if any Taxes, or Subsidies, or any other Charge to be levied for the Kings Grace, happen to be granted, and the Inhabitants, or Dwellers of the said Town of *H.* hereafter at any time to be charged and onerate with payment of the same, then he Willed, That the said Feoffees lay out and distribute all such Rents paid to them by the said Bailiff, remaining in their hands, to the Relief, Help
and

Charitable Uses.

and Easement of the Commons there, in paying the said Taxes, and Subsidies (the Inhabitants and Dwellers in the Mannor of the Lord S. Prior of S. of the *Bow*, of the Abbot of *York*, of the *Michael* College, and of *Queens* College in *Cambridge*, and of the Mannor of S. of *H.* aforesaid Excepted, and Out-taken) And in case the said Commons or Tenants be not charged with payment of the said Taxes and Subsidies, then he Willed, that the same residue of Rents remaining in the hands of the said Feoffees at their Discretion to be disposed among the poor People of the same Parish in Charitable Deeds. And this Respondent further saith, That the said Exceptants did not expend or dispose of the same, according to the intent of the said Will ; but in the payment of their own Taxes charged, or chargable upon their own Lands, which Lands lie in some of the Places which are excepted, as aforesaid, and yet there are some Persons within the said Town, *viz.* the Vicar, and one P. a Cottager, and another whose name this Respondent remembers not, who, as this Respondent believes, had little or no benefit of the said Charity by payment of their Taxes, as appeared before the said Commissioners. And this Respondent doth insist, That the said Commissioners had power to enquire into the misemployment of the said Monies which were intended for the Benefit of the poor Tenants, or People in that Town, by the said Will, but laid out by the Exceptants

for payment of their own Taxes. And the said Will having appointed new Feoffees to be chosen out of the said Town, or the other Towns next adjoining, the major part of the said Commissioners did appoint three of the Commissioners named in the said Commission to be new Feoffees, amongst others, which three were qualified according to the appointment of the said Will, they being honest Gentlemen of sufficient Estates, and dwelling near to H. and not excluded from being Feoffees; either by the said Will, or otherwise.

Answer to the fourth Exception.

AS to the fourth Exception taken by the said Exceptants to the said Decree, This Respondent saith, That he is advised, that the same is frivolous; For that though the said Decree doth mention it to be made at C. by the Commissioners therein named, on the 13th day of *January* 1693. And the said Exceptants alledge that it was only signed and sealed by Sir C. H. and others in the said Exception named, who (as is pretended) as well as many others of the said Commissioners, that so signed and sealed the said Decree, were not present at C. on that day; yet this Respondent saith, That the Inquisition was duly taken at C. and it is not material whether all the Commissioners did sign the said Decree at C. or were present there at that day; it being lawful for them, as this

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Respondent is advised, to sign and seal the same any other day after, or at any other place, if satisfied in the Truth and Justice thereof, before the Return of the Commission into this Court; And there was a Draught of the Decree made at one Meeting of the Commissioners at C. and the same being agreed to by them, and Ordered to be Ingrossed, and the same being Ingrossed, it was afterwards duly signed and sealed by those Commissioners who are mentioned therein to have signed and sealed the same; and it is not material where, or when they signed and sealed the same, as this Respondent is advised, so as the same was signed and sealed by four or more of them, before the Return thereof, and at, and after the day in the said Decree mentioned. And this Respondent denies, that any of the said Commissioners, that heard, or were present at the hearing and debating of the Matters on which the said Decree was made, declined or refused to join in the making of the said Decree, to the knowledge of this Respondent, or, if they had, is it material, in regard a sufficient number of Commissioners did join in making of the same. And this Respondent denies, that any of the said Commissioners that signed the said Decree were obtained by this Respondent, who hath been Prosecutor thereof, to sign the said Decree singly, or after the 13th day of *January* last past, though, if he had, he is advised, it is not material. And this Respondent saith, That the Lord
Bishop

Bishop of *E.* is named in the said Commission, and heard the Matter debated at *C.* at several days and Meetings often, and did sign the said Decree, though he is not named in the Body of the said Decree to have made the same, or to join in the making thereof; but by his signing thereof he joyned in the making thereof, and the same was made and signed by a sufficient number of Commissioners, besides the said Lord Bishop: And therefore this Respondent abides in the Judgment of this Honourable Court in the Premises, and prays that the said Decree may stand and be confirmed, with such Amendments as this Respondent hath before mentioned, if this Honourable Court think the same meet; and that the said Exceptants may perform the same; and this Respondent may have his Costs.

W. Rawlinson.

Additional Bills.

Lady Stawell Widow Dowager and Administratrix of Lord Stawell, intituled to a Portion of 10000 l. to be raised out of a Term of ninety nine years out of divers of her Fathers the Earl of Salisbury's Mannors and Lands, becoming payable to her before her Marriage, of which she received only 254 l. and afterwards Intermarrying with the Lord Stawell, who by Marriage-agreement was to settle on her an Annuity of 1500 l. per Annum, to be issuing out of his Lands, to commence immediately after his decease in lieu of Dower. And several of her Fathers the Earl of Salisbury's Lands, being by Act of Parliament vested in Trustees, to be sold for payment of the said Ladies, and other younger Childrens Portions; Trustees having sold the same, and the sum of 5277 l. 10 s. appointed to be paid by the Purchaser, as part of the said Ladies Portion, but forbid by her Trustees to be paid to the Lord Stawell before he made such marriage-settlement; and the Lord Stawell dying before he did the same, and C. S. one of the Defendants pretending an Assignment of the Mony from the Lord S. in his life-time: The Lady exhibits this Bill against the Purchaser and Trustees for her share of the Purchase-mony, and against C. S. the Assignee, and against Trustees of her Father's Will for the residue of her Portion unpaid,
that

that they may account with her, and that the Mony payable by the Purchaser and Trustees may be paid her in her own right.

HUmblly, &c. unto your Lordship M. Lady S. Widow Dowager of the Right Honourable *John* Lord S. lately deceased intestate, and also Administratrix of the Goods, Chattels, Rights and Credits by virtue of Letters of Administration to her committed by the Prerogative Court of *Canterbury*, as by the said Letters of Administration, ready to be produced to this Honourable Court, more clearly may appear, That your Oratrix by virtue of the Will and settlements of her late Father, *James* Earl of S. deceased is intituled to the Portion of 10000 *l.* to be paid at her Age of eighteen years or day of Marriage, which should first happen; which Portion was to be raised out of one or more Terms of ninety nine years, of and in divers Mannors, Messuages, Lands, Tenements and Hereditaments, limited by the said Earl for that purpose. And your Oratrix further sheweth, That before her said Marriage, your Oratrix attained her said age of eighteen years, and received the sum of 254 *l.* in part of her said Portion. And the said *John* Lord S. being acquainted that your Oratrix was well intituled to the said Portion, and that the same was become due and payable, and stood secured as aforesaid. He the said *J.* Lord S. entred into a treaty with your Oratrix's Friends and Relations for a Marriage

to be had between him and your Oratrix, and in consideration of the said Portion and Marriage did positively agree to settle and assure your Oratrix for her Life a yearly payment or Rent-charge of 1500*l.* a year to be issuing out of all or a sufficient part of his Mannors, Lands, Tenements and Hereditaments in the Counties of *D.S.* and *W.* and elsewhere in the Kingdom of *England*; or otherwise to settle and assure to, or for your Oratrix's benefit, a yearly payment or Rent-charge of 1500*l.* a year for her Life, the same to commence immediately after the death of the said Lord *S.* and to be in bar and full satisfaction of all Dower and Thirds which your Oratrix might claim out of any of the said Mannors, Lands, Tenements or Hereditaments. And your Oratrix further sheweth, That your Oratrix accepted of the said agreement, and trusted to, and depended upon a just performance thereof, and thereupon did intermarry with the said *J.* Lord *S.* on or about the 26th day of *April*, which was in the year of our Lord 1691. and the said *J.* Lord *S.* did several times after his said Marriage promise and declare, that he would settle the said Rent charge of 1500*l.* a year upon your Oratrix accordingly. And your Oratrix's Friends sometimes pressing him therein, he declared it would be no prejudice to your Oratrix if he died before he should settle the same, for that your Oratrix would in such case be intitled to Dower out of his said Estate, which Dower would be more valuable

valuable to your Oratrix than the said Rent-charge ; nevertheless he the said J. Lord S. was preparing, as he pretended, to settle the same, and had given Directions to Council for that purpose, and the Trustees for raising your Oratrix's Portion: And also the most Reverend Father in God, *John* Lord Archbishop of *Canterbury*, and others who were Overseers of the Will of your Oratrix's said Father, and the Right Honourable the Countess of *B.* who was your Oratrix's Guardian by the Will of her said Father, they or some of them did several times give notice, or cause notice to be given to the said *John* Lord S. That he should not receive your Oratrix's Portion, until he had made a settlement upon your Oratrix in lieu thereof, according to his agreement and frequent promises for that purpose. And the said Lord S. was content, and did agree not to receive the said Portion until such settlement should be made. And your Oratrix further sheweth, That for the more speedy raising of the said Portion, and other the Portions of your Oratrix's Brothers and Sisters, and payment of the Legacies and Debts of the said late Earl, an Act of Parliament was made in this present Parliament, Intituled *An Act for the better securing the Portions, Debts and Legacies given and owing by James late Earl of Salisbury.* By which Act the Mannor and Scite of the Mannor of *Andrews* with the Appurtenances, and divers Messuages, Lands, Tenements and Hereditaments in *Chestbunt* in the County

of *Hertford*, and divers other Mannors, Messuages, Lands, Tenements and Hereditaments of very great value are vested and settled in Sir *W. B.* Baronet, S. P. Esquire, *E. S.* and *J. F.* Gentlemen, and their Heirs in trust by sale thereof, forthwith to raise the said Portions, Debts and Legacies, and particularly the sum of 9745 *l.* 17 *s.* 6 *d.* in full for your Oratrix's Portion: And the said Trustees appointed by the said Act of Parliament, in pursuance of their Trust, have lately sold unto Sir *Edward D.* Knight and his Heirs, the said Mannors, Lands and Hereditaments in *Chestbunt* for the price of 17500 *l.* which Purchase-mony the said Trustees did distribute and appoint the said Sir *E. D.* to pay as followeth; (that is to say) to the said Lord Bishop 332 *l.* 10 *s.* in full of his Legacy, 5277 *l.* 10 *s.* in part of your Oratrix's Portion, 6440 *l.* to your Oratrix's Brother, *Robert Cecill*, in full of his Portion, and 4950 *l.* to Sir *William Forrester*, being all that remained unpaid of his Ladies Portion, who was your Oratrix's Sister. And the said Sir *E. D.* his Purchase-mony being so distributed and appointed; it was so inserted and expressed in the Conveyances of the said Premisses in *Chestbunt* to Sir *E. D.* And at the Instance and Advice of his Council, the said Lord Archbishop, Lord *S. Robert Cecill*, and Sir *W. F.* were made Parties to the said Conveyances, to the intent that they might therein acknowledge the receipt of the Purchase-mony so distributed amongst them. But the said Trustees

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Trustees did never intend that the said Sir E. D. should actually pay the said sum of 5277 *l.* 10 *s.* to the said Lord S. until he should make a settlement on your Oratrix according to his agreement and promises as aforesaid; and they the said Trustees, or some of them, or your Oratrix's Brother the Earl of *Salisbury*, did charge and direct the said Sir E. D. and his Scriveners Mr. T. E. and J. W. who transacted the said Purchase for him, and prepared and ingrossed the Conveyances thereof, that they should not pay the said 5277 *l.* 10 *s.* or any part thereof unto the said J. Lord S. until he should give the said Trustees, or Earl, or some of them satisfaction touching the said settlement. And told the said Sir E. D. and his said Scriveners, that they should make use of that opportunity to prevail with the Lord S. to make the said settlement. And the said Sir E. and his said Scriveners did promise and agree, that they would not pay the said Money to the said Lord S. without the privity and consent of the said Trustees, or Earl, or some of them: And the said Trustees and Overseers, or your Oratrix's said Brother the Earl of *Salisbury*, did declare to the said Sir E. and his Scriveners, that they would before that time have sued the said Lord S. in this Honourable Court, to have compelled him to have made the said settlement (and so in truth they would) but that his Privilege of Parliament obstructed it; and that therefore if upon tender of the said Money by the said Sir E. he
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the Lord S. should have refused to have made the said settlement, they would put him to sue for the said Mony in this Honourable Court, whereby this Court might the better have it in their Power to compel him to make such settlement before he received the said Mony. And your Oratrix further sheweth, that the said J. Lord S. in the Month of *November* last fell sick, and in the space of six days after died, but his sickness was not looked upon as mortal till about two days before his death, and then he was so much disordered with his sickness, that it was not thought fit to trouble him with any discourse of his affairs and business, and the said J. Lord S. died of that sickness on or about the last day of *November* last, having Issue only A. S. his Daughter and Heir, who is not yet one year old. Whereupon your Oratrix, who was a Stranger to his Affairs, did in the presence of several of his Relations cause search to be made in his Scrutore and little Trunk, and all other likely places in the House in *Arlington-street*, near St. *Jame's*, where he died, to see if any Will of the said Lord S. could be found. And finding none, your Oratrix did cause enquiry to be made of N. R. Esquire, who was his Council or Agent in all his Affairs, whether he knew of any Will of the said Lord S. and the said Mr. R. assured your Oratrix and her Friends, that the said Lord since his Marriage with your Oratrix, and long before his death, had ordered him the said Mr. R. to Cancel a Will, which the
said

said Lord S. had made beforeⁿ his Marriage with your Oratrix, and had given him Instructions for drawing another; and that accordingly the said Will was long since cancelled, and that the said sudden sickness and death of the said Lord S. had prevented him from preparing and presenting to his Lordship another Will according to the said Instructions, and he said he was sure his Lordship died Intestate, and therefore advised your Oratrix to take out Letters of Administration. And your Oratrix for further satisfaction caused a Scrutore or Cabinet of the said Lord S. to be sent for up to *London* out of the Country, wherein she apprehended the Lord S. used to keep Writings of great Concern; and when the same was brought to the said House in *Arlington-street*, your Oratrix caused the same to be opened in the presence of divers of his Relations, but no Will could be found therein; so that for any thing your Oratrix yet knoweth or doth appear, the said Lord S. died Intestate, and therefore your Oratrix hath obtained Letters of Administration out of the Prerogative Court of *Canterbury*, bearing date the 20th day of *December* 1692. to be granted to her of all the Goods, Chattels, Rights and Credits of her said Husband J. Lord S. and thereby in case the said Lord S. had any right to the said 5277 *l.* 10 *s.* due from the said Sir *Edward D.* or to the remainder of your Oratrix's said Portion, your Oratrix is well intituled in Law to receive the same as part of his Affets.

Additional Bills.

Assets. But your Oratrix is advised, and doth insist that the said 5277 *l.* 10 *s.* and the said remainder of her Portion, being 4372 *l.* 10 *s.* are due to her in her own Right, and ought to be paid to her, and retained by her to her own use, your Oratrix being willing that the same shall go and be in part of satisfaction to her for the said Rent-charge of 1500 *l.* *per annum*, which ought to have been settled upon her; and your Oratrix hath caused demands to be made on her behalf of the said 5277 *l.* 10 *s.* from the said Sir *E. D.* and of the said 4372 *l.* 10 *s.* from the said Trustees; and well hoped that the said sums of Money would have been paid to her accordingly. But so it is may it please your Lordship, that the said Sir *E. D.* and the said Trustees do refuse to pay the said Monies, pretending that the said Lord *S.* did in his Life-time make some Assignments or Appointments of the said Money to some of the Confederates herein after named; and the truth is, your Oratrix hath discovered since the death of the said Lord *S.* that there was a Design and Confederacy carried on in the Life-time of the said Lord *S.* by, and between *C. S.* of *London*, Goldsmith, and *S.* his Son, *E. S.* Esquire, and the said *N. R. T. E. J. W.* and divers other Persons as yet unknown to your Oratrix (whose Names, when discovered, your Oratrix prays may be made Parties to this Bill, with apt words to charge them) to deprive your Oratrix of the said sums of Money so due to her
from

from the said *E. D.* and the said Trustees as
aforesaid. And for that purpose the said
Confederates do pretend, that the said *J.*
Lord *S.* hath received and borrowed of the
said *C. S. E. S.* and *N. R.* or of other Per-
sons for whom they acted or were intrusted,
divers great sums of Mony, for securing
whereof, as they pretend, the said Lord *S.*
hath made one or more Letters of Attor-
ny, Notes, Deeds or Writings, whereby, as
they pretend, the said Mony due from the
said Sir *E. D.* and the said Trustees, or some
part thereof are assigned or appointed to
be paid unto them, or one of them, or
some other Persons in trust for them, or for
whom they act or are intrusted. And they
do insist more especially, that the said
5277 *l. 10 s.* due from the said Sir *E. D.*
was become the proper Monies of the said
J. Lord *S.* and in his power to assign the
same, for that, as they pretend, the same
Lord *S.* did actually seal and execute the
said Conveyances to the said Sir *E. D.* and
did sign a Receipt for the said Mony, in-
dorsed upon the said Conveyances; where-
as in case the said Lord *S.* did make any
such Assignment or Appointment of the said
Mony, the same amounting to no more
than only a Letter of Attorney and deter-
mined by his death, and none but your
Oratrix is legally intituled to receive the
same, or to discharge the said Sir *E. D.* and
the Trustees thereof. And in case the said
Lord *S.* did seal the said Conveyances, or
sign any Receipt for the said Mony due
from

Additional Bills.

from the said Sir *E. D.* the same was in the time of his sickness, some few days before he died, and it was by the contrivance of the said Mr. *R. C. S. J. W.* and *T. E.* who all knew, had heard or been informed before they obtained the same, that the said Trustees and the said Earl of *Salisbury* or some of them had charged and directed the said Sir *E. D. T. E.* and *J. W.* not to pay the said 5277 *l. 10 s.* or any part thereof until the said Trustees and Earl were satisfied touching the said settlement; and they all knew and heard or have been informed likewise, that the said Trustees and Earl or some of them had said and declared, that they would make use of that opportunity to prevail with the Lord *S.* to compel him to make a settlement on your said Oratrix, but that his privilege of Parliament obstructed it; and therefore they would put him to sue for the said Mony, that they might the better obtain a settlement for your Oratrix. And they all knew also, and had heard or been informed, that the said Sir *E. D. T. E.* and *J. W.* some or one of them had promised and agreed, that they would not pay the said Mony to the said Lord *S.* without the privity and consent of the said Trustees, or Earl, or some of them. And the truth is, the said Conveyances to the said Sir *E. D.* were executed by the said Earl and Trustees long before any of the said Purchase-mony was paid (that is to say) in or about the Month of *May* last; and it hapning that the said Earl of *Salisbury*, the same,

same, or the next day was committed to the Tower upon false accusation, the said Sir *E. D.* refused to pay any part of the said Purchase-mony, and thereupon a Suit was commenced against him in this Honourable Court by the said *R. C.* Esquire, and Sir *W. F.* to compel him to pay their shares thereof, or else to reconvey the said Premises to the said Trustees, and quit the said Purchase: And the said Earl being afterwards bailed upon security to appear the last *Michaelmas* Term at the Kings Bench Bar, did accordingly appear in the said Court, but by the course of the said Court could not be finally discharged till the last day of the said Term, although it manifestly appeared that he was falsely accused by a perjured Villain that had forged his hand, and was indicted for the said Perjury, and to be tried for the same at the Bar of the said Court: And the said Earl being at last finally discharged, the said Sir *E. D.* then seemed willing to proceed in the Purchase, and to pay the said Purchase-mony. But the said Earl of *Salisbury*, who is intituled to the surplus of the said Trust-estate did insist, that the said Sir *E. D.* ought to pay interest for all the said Purchase-mony from the time of the said Earls executing of the said Conveyances until the said Purchase-mony should be actually paid; and the said Dispute touching the Interest continued till after the death of *John* Lord *S.* and then the said Sir *E. D.* did submit to pay Interest to the said Earl for all the said Purchase-mony, for all the said time since
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the executing the said Conveyances, except the first Fortnight or thereabouts. And the whole interest being then computed for all the said time, the said Earl upon the whole matter thought fit to abate him 50 *l.* out of the whole, and thereupon the said Sir *E. D.* paid the residue of the said Interest to the said Earl. And your Oratrix chargeth, that notwithstanding the said Conveyances were executed by the said Earl and Trustees in *May* last, yet in regard the said Sir *E. D.* refused to perfect the said Purchase, and to pay the said Purchase-mony, the said *R. C.* and Sir *W. M.* would not accept of the said Sir *E. D.* for their Paymaster, and discharge the said Trust-estate, and therefore by their Bill in this Court prayed, that their Portions might be satisfied out of the said Trust-estate. And in truth the said Conveyances remained deposited in the hands of the said *J. W.* and *T. E.* in trust, and for the benefit of all Parties concerned, and to be delivered out, either to the said Sir *E.* or to the said Earl; and the said Trustees according as the said Sir *E. D.* the said Earl, and the said Trustees should afterwards agree amongst themselves; and some short time after the said Sir *E. D.* had first refused to pay the said Purchase-mony, there was a meeting at the House of Sir *A. K.* of all or most of the Parties concerned (that is to say) there were then present the said Lord Bishop, *R. C.* Esquire, Sir *W. M.* Sir *E. D.* and his Son; the said *E. S.* and *J. F.* and the said *J. W.* and also Council for the said Earl and Trustees, and
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for the said Sir E. D. At which meeting, after full debate of all the matters, the Council for the said Sir E. D. did positively advise him not to pay the said Purchase-mony; the particular accusation (whereupon the said Earl was committed) being then not known; and although the particulars and falseness of the accusation were shortly afterwards known to the said Sir E. D. yet he was so scrupulous, that he would not pay the said Purchase-mony till the said Earl was finally discharged, as aforesaid. At which meeting at Sir A. K's, it being proposed, that the Purchase-mony should be deposited in a third Hand until the said Earl should be discharged, or else lent out to the Exchequer; none of the said Parties would agree to either of the said Proposals, in regard none of them were willing to stand to the hazard thereof. And thereupon the said Trustees, and their Council at that time pressed the said Sir E. D. to quit the said Purchase, and reconvey the Estate, for that there were several other Persons that were desirous to buy the same, and give as much or more Money for it, notwithstanding the said Earl lay under such Accusation and Imprisonment. And the said Sir E. neither accepting or refusing that Offer, he was then told that a Bill should be forthwith filed against him in this Court to compel him either to proceed in, or quit the said Purchase; and accordingly the said Bill was presently afterwards filed, and Process of Subpena served upon him to answer the same, and he appeared

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peared thereunto, and took out a Copy of the said Bill, and an Attachment issued against him for not answering the same; and he was several times told by the said *E. S.* and *J. F.* or one of them, that he should be Arrested thereupon; and the said *Sir E. D.* did so far decline the said Purchase, that although he had taken Goldsmiths Notes, payable to the said Parties to whom the said Mony was appointed to be paid, with intent to deliver the same as payment upon executing of the said Conveyances, yet immediately upon the said Earls Imprisonment, he delivered up the said Notes to the Goldsmiths, and took Notes for the same Mony payable to himself; and afterwards drew out, used and disposed of the said Mony, or part thereof for other purposes; and the said *Sir E. D.* did not afterwards take Goldsmiths Notes payable to the said Persons who were to share his Purchase-mony, until the day, or a few days before that he and the said Earl ended the said Dispute about Interest at *Salisbury-house*, and the Lord *Stawell* died the Morning of that Day. On which day, being the 30th of *November* last, the said *Sir E. D.* then paid the said *R. C.* Esquire, and *Sir W. M.* their proportions of the said Purchase-mony, by delivering to them Goldsmiths Notes payable to themselves; and also he then either gave his own or Goldsmiths Notes for the said Mony due to the said Lord Bishop, and the said Interest due to the said Earl; and thereupon the said *Mr. Cecil* and *Sir W. F.* did execute the said Conveyances;

veyances; and then, and not before, the said Earl and *E. S.* and *J. F.* did agree, that the said Conveyances should be delivered to the said Sir *E. D.* and the said Sir *E. D.* did thereupon execute a Counter-part thereof to them. And the said Sir *E. D.* directed the said Mr. *W.* to carry the said Conveyances the next day to *Lambeth* to be executed by his Grace of *Canterbury*, and to take his Graces receipt for his share of the said Purchase-mony. And your Oratrix further chargeth, that from the time the said Conveyances were executed in *May* last, until the 30th day of *November*, neither the said Earl, nor the said Trustees had ever seen or perused the same, but depended upon the said Mr. *W.* and Mr. *E.* that they had safely kept the same. But the same being then produced at *Salisbury-House*, for the said Mr. *Cecill* and Sir *W. F.* to execute; it was observed that the said Lord *S.* had executed the same, and had subscribed a Receipt indorsed thereupon for the said 5277 *l.* 10 *s.* and it was then intimated by the said Mr. *W.* as if the said Lord *S.* had assigned the same Mony to Mr. *C. S.* or some other Person. And the said Sir *E. D.* thereupon asking the said Earl and the said *E. S.* and *J. F.* what he should do with the said 5277 *l.* 10 *s.* and to whom he should pay the same, they all did forbid him to pay the same to the said Lord *S.* and told him, that it being part of your Oratrix's said Portion, she had a right to retain the same in regard there was no settlement made upon her; and in case the said Mr. *W.* or his Part-

ner were prevailed upon by the said Mr. R. and C. S. to carry, send or produce the said Conveyance to the said Lord S. to be executed, and for him to sign Receipt thereupon, it was a breach of Trust in them, and was without the privity, knowledge or Consent of the said Sir E. D. the Earl of *Salisbury* or the said Trustees who intrusted them with the custody of the said Conveyances; and the said C. S. and the said Mr. R. having private intimations from the said Mr. W. and the said Sir E. D. from time to time how the said Purchase proceeded, and what likelihood there was of accommodating the said Disputes relating thereunto, they often pressed the said Sir E. D. to pay the said Mony to them, or to the Lord S. or to his Order, and offered him great abatement and allowance or gratuity, if he would pay the same; but he being fearful of trouble, refused them, and thereupon they applied themselves to the said Mr. W. and his Partner, and prevailed with them to produce the said Deed for the said Lord S. to execute as aforesaid; and they now hope and pretend that the property of the Mony is so far altered, as that your Oratrix is deprived of her equity of relieving the same; whereas by the said Act of Parliament, the said Earl and Trustees had time to pay your Oratrix's said Portion until *Christmas* last: And although it is mentioned in the said Conveyance, that the Trustees do thereby appoint the said 5277*l.* 10*s.* to be paid to the said Lord S. as part thereof, yet the same

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was no such fixt appointment, but that the said Trustees might have altered the same, especially when the said Sir *E.* torally refused to comply with any of the said appointments until after the death of the said Lord *S.* And the truth is, and the said Sir *E.* and Mr. *W.* do very well know, and the said Mr. *R.* and Mr. *S.* have been informed that the said Earl and the said *E. S.* and *J. F.* did endeavour as much as might be to keep it private from the said Lord *S.* and Mr. *R.* that they had appointed any part of the said Purchase-mony to be paid to the said Lord *S.* and therefore he was not desired to meet at the said Sir *A. K.*'s; but the said Sir *E. D.* and Mr. *W.* do well know that it was then, and at several other times debated and considered how the said Lord *S.* might be prevented from receiving any part of the said Portion, unless he made a settlement; neither in truth can any of the said Transactions prejudice the Original Right and Equity which your Oratrix had for having and retaining her said Portion towards recompence and satisfaction of the said settlement, which the said Lord *S.* before Marriage agreed to make upon her, especially your Oratrix, during all the said Transactions, being under Coverture and in Minority; your Oratrix not attaining her Age of one and twenty Years, until about the time of the death of the said Lord *S.* And the hardship is the greater upon your Oratrix, for that since the death of the said Lord *S.* it now appears impossible that your Oratrix should

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have her Rent-charge of 1500 *l.* a year out of the said Lord *S.* his Estate, not only for that his Daughter and Heir, the said *A. S.* is under Age, but also for that the said Estate is greatly incumbered with Mortgages, and otherwise, and consists chiefly upon Reversions, upon Leases for Lives. And sometimes also the Friends and Relations of your Oratrix's said Daughter *Ann S.* and also of *William* now Lord *S.* who is about the Age of seven Years, and Brother to *E. S.* Esquire, who is about the Age of five Years, or some of the Friends and Relations of the said Lord *William* and *Edward* on their behalfs pretend, that the said agreement for a Rent-charge of 1500 *l.* a year for your Oratrix, is not a sufficient agreement in the Law to bind the Inheritance of the said three Infants; and that your Oratrix's demand also of retaining the said Portion is to their prejudice, and that the said Portion ought to go as part of the Personal Estate of the said Lord *S.* the said Infant *A. S.* being intitled to two third parts of the surplus of the said Lord *S.* his Personal Estate. And all the said Infants having, as is pretended, a right in Equity to have all the said Personal Estate applied to dismember the Real Estate of the said *J. Lord S.* the Inheritance whereof is descended to the said *A. S.* as his Heir at Law, save only to the Mannors of and Lands in *C.* in the County of *S.* which are incumbered with a Mortgage for 6000 *l.* And otherwise they the said *William Lord S.* and *E. S.* do pretend, that the Inheritance
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and Right of Redemption thereof doth belong to them. And in regard your Oratrix's said Demands may be to the prejudice of our Oratrix's said Daughter, and to the lessning her Interest in the said Lord S. his Real and Personal Estate; and also may be to the prejudice of the said W. Lord S. and E. S. if any such right they have, as aforesaid, your Oratrix humbly prays that this Honourable Court will assign a Guardian for all the said Infants in this Suit to defend their Rights. And your Oratrix further chargeth, that as to the demands of the said C. S. E. S. and N. R. that the said Lord S. was not really indebted to them at the time of his decease, or at the least not in any considerable sum of Mony; and whatsoever is due to them, the same stands secured by one or more Recognizances, Bonds or Judgments in great Penalties. And in case they have any Assignment of the said 5277 l. 10 s. or any part thereof, or of the said remaining part of your Oratrix's said Portion, they did not advance any new Mony thereupon, and were told, and did apprehend that they would be hindred from receiving the same; and they knew that the said Conveyances were so deposited with the said T. E. and J. W. for the Purposes, and upon the Occasions herein before set forth; and that your Oratrix's Friends would dispute the Payment thereof. And as to the said Mr. Sheldon, he did not deal with the said Lord himself, or if he did, he had, or was to have some extraordinary advantage thereby,

by, in respect of some Bargain or Hazard, or else he knowing that the said Lord S. was much incumbered, and having Cash in the said C. S. his Hands, he suffered the said C. S. to lend the same, and the said C. S. agreed, that all the securities which he had from the Lord S. should be a security to the said Mr. *Sheldon* for his Mony which he so lent; and the said C. S. is likewise answerable to the said Mr. *Sheldon* for the same Mony, and hath promised to make it good to him. Besides which, the said C. S. being a Goldsmith, hath Silver Trencher-plates, and other pieces of Plate, and divers Jewels, and other things of value which belong to the said Lord S. in his Custody, and being a Cashier or Banker, great sums of Mony were received and paid in by him on account of the said Lord S. And there were great Dealings, and Transactions and Bargains between him and the said N. R. and J. Lord S. particularly touching the Place or Profits of the Office of Water-Bailiff in *London*, and divers Debts and Portions due to Orphans of the City of *London*, and others from the Chamber or Chamberlain of the said City of *London*, or from the Corporation of the said City. And divers Grants, Assignments and Contracts were made by, to and with the said C. S. and N. R. or one of them, for and concerning such Debts: And also for, and concerning the said Office and Profits of Water-Bailiff, and concerning divers other matters. All which Grants, Assignments and Contracts were so made

made by them in trust for the said Lord S. and on his account; and what Mony was paid in pursuance, or as the consideration thereof, was really the proper Mony of the said Lord S. and on his account, or else they did agree to be Partners, or go some share with the said J. Lord S. in those Bargains; but never paid their Proportions of Mony which they ought to pay on those accounts. And the said Mr. R. also received and had in his Hands divers great sums of Mony, pieces of Plate, Jewels and other things of great value which did belong to the said J. Lord S. which he sometimes pretends were given him: But in truth he is accountable for the same, and he hath, or had also divers Counterparts and Copies of Mortgages, Defeazances and other Securities entered into by the said J. Lord S. and divers Articles, Assignments, Contracts and other Papers and Writings belonging to the said J. Lord S. all which he ought to deliver to your Oratrix; and he having been intrusted by the said J. Lord S. in all his Affairs, Bargains and Dealings; and your Oratrix being an utter stranger thereunto, he ought to discover the same to your Oratrix, and to set forth all the Debts, Claims and Demands according to the best of his knowledge and information which any Person or Persons had, or could claim from or against the said J. Lord S. at his decease, and now hath or can claim against your Oratrix as Administratrix of the said J. Lord S. and for what, with whom, and when, and by and upon what

what Securities, Covenants and Agreements, and how much is really due thereupon. And the said Mr. R. doth also well know, and hath been informed that many Persons had received great sums of Money belonging to the said J. Lord S. and were otherwise indebted and accountable to him at the time of his decease, or had entred into several Covenants, Contracts or Agreements with the said Lord S. which were, or were pretended or expected to be for the benefit of his Lordship; but the Names and Habitations of all those Persons, and all other the said Particulars concerning them he doth refuse to discover. And your Oratrix further chargeth, that the said T. E. and J. W. had several dealings with the Lord S. either on behalf of themselves or some of their Clients; and they or the said Clients do pretend, that the said J. Lord S. was at the time of his death indebted or accountable to them or some of them; whereas in truth they were indebted and accountable to the said J. Lord S. But so it is, that all the said Confederates do refuse to make any discovery of the Premises to your Oratrix, or to produce their own Books of Accounts, or any of the Securities, Deeds, Writings, Notes, Copies or Papers relating to the Premises herein before set forth. All which they ought to do, for that thereby and upon their discovery upon Oath it will appear, that all their pretended demands are satisfied, and that they are really indebted and accountable to your Oratrix as Administratrix

to the said J. Lord S. in divers great sums of Mony. All which their dealings and pretences are against Equity and Conscience, and your Oratrix is properly to have relief in this Honourable Court in all the premisses of your Oratrix's Bill. And your Oratrix's Witnesses who could make proof of the Premises being either dead or in remote parts beyond the Seas, so that your Oratrix cannot have the benefit of their Testimonies. To the end therefore that the said Trustees Sir W. B. S. P. E. S. and J. F. and the said Sir E. D. N. R. C. S. and S. E. Sheldon, T. E. and J. F. and other the said Confederates when discovered, may true answer make to all and every the Premises of this your Oratrix's Bill, as fully and particularly as if the same were here again repeated and interrogated: And particularly whether all the circumstances and transactions relating to your Oratrix's said Portion, and the said Mony payable by Sir E. D. are not such as are herein set forth, or how otherwise. And that the Mony payable by Sir E. D. and the said Trustees may be payable to your Oratrix in her own right; and may account with your Oratrix in the Premises, and pay unto your Oratrix what shall appear due to her from them on such account, and that your Oratrix may be fully relieved against them in the Premises according to Equity and Justice. May it please, &c.

Plaintiff

Plaintiff being Purchaser of an Estate of the late Earl of S. deceased, by Act of Parliament vested in Trustees for Sale, and some part of the Purchase-mony being appointed by Trustees to be paid unto the Lord Stawell deceased, who dying, the Mony unpaid, and the Lady M. his Wife and Administratrix demanding the same by exhibiting her Bill in this Court; and also one S. a Goldsmith exhibiting his Bill against him for the same Mony, as assigned to him by the Lord S. in his Life-time, exhibits his Bill, that the Lady and S. may interplead with each other, and proceed to a determination of their Properties in the said Mony, and that the Plaintiff may bring his Mony into Court, or be otherwise indemnified against both their Claims and Pretences; and makes Affidavit at the bottom of the Bill, that he exhibits the same voluntarily at his own Costs, and not at the Persuasion or Costs of either Party, Defendants.

HUmblly complaining, sheweth unto your Lordship your Orator Sir E. D. of London Knight, That the Mannor of A. and divers Lands, Tenements and Hereditaments, late the Estate of the Right Honourable James Earl of Salisbury deceased, being by Act of Parliament vested in Trustees for Sale and Disposal of the same; your Orator did contract and agree for the purchase of the same, for the sum of seven-
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teen thousand five hundred pounds, of which said sum there was appointed to be paid in pursuance of the said Act by the Trustees therein named unto J. Lord S. deceased, 5277 *l.* 10 *s.* And your Orator further sheweth, That the Trustees and all other Persons concerned in the said Mannor and Premises, and particularly the said Lord S. did by good Coveyances in the Law, convey the said Premises to your Orator and his Heirs. And the said Lord S. having, as your Orator was informed by one C. S. of *London*, Goldsmith, appointed the said 5277 *l.* 10 *s.* to be paid unto him the said C. S. your Orator did appoint the said M. S. to meet at *Salisbury-House* to receive his Mony at a time when your Orator was to pay the other Persons the Mony payable to them; and the said Mr. S. did then attend, but some of the other Persons not attending at the same time, the payment of the Monies was deferred to a further time; and afterwards upon discourse between the Lord *Salisbury* and E. S. and J. F. two of the Trustees, touching the said matter, they did forbid your said Orators paying the said Mony to the said Mr. S. notwithstanding an Order of the said Lord S. to pay the said Mony to Mr. S. as he informed your Orator; and soon after the said Lord S. died, the said Mony remaining unpaid. And your Orator further sheweth, That after the death of the said Lord S. M. Lady S. his Widow did take out Letters of Administration of all and singular the Goods, Chattels and Credits of the said Lord

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Lord *Stawell*, and demands the said Mony of your Orator, as also doth the said *Shales*. And now so it is, may it please your Lordship, That the said Lady *S.* combining with the said Mr. *S.* and Mr. *F.* and *Shales* or some of them, and with Sir *W. B. S. P.* Esquire, and *James* Earl of *Salisbury*, did on or about the four and twentieth day of *January* last exhibit her Bill in this Honourable Court against your Orator, and the said *C. S.* and others, to compel your Orator to pay the 5277*l.* 10*s.* unto the said Lady *S.* and the said *C. S.* hath also exhibited his Bill in this Honourable Court against your Orator and the said Lord *S.* to compel your Orator to pay the said 5277*l.* 10*s.* to the said *S.* and not to the said Lady *S.* He the said *S.* pretending that the said Lord *S.* before his death, did by his Deed or Writing under his Hand and Seal, Assign and transfer the said Mony unto him the said Mr. *S.* for a valuable Consideration in Mony paid by the said *S.* to the said Lord *S.* in his Life-time. And the said *M. Lady S.* by her Bill pretends, that the Lord *S.* did upon or before his Marriage with her, make and execute an Agreement in Writing, whereby the said 5277*l.* 10*s.* with other Mony, were to be laid out in Lands to be settled on her, which was never done; and by reason of such or the like pretences of the said several Persons aforesaid, your Orator hath been constrained to keep the said Mony dead at great hazard, and cannot dispose of the same, or be discharged thereof, till the Pretences of each Party

to the same are determined, who likewise insist, that your Orator shall pay Interest for the said Mony in the mean time, and make no speed to the hearing of the Causes, but delay the same on purpose to charge your Orator with Interest thereof: And albeit your Orator hath put in his Answer to both the said Bills, and offered to pay the said Mony into Court, yet the said Confederates do oppose the same, pretending that your Orator ought to have brought his Bill of Interpleader, whereby your Orator is necessitated to bring this Bill, and whereby he hath been put to great Charges, whereof he prays the consideration of this Court. In tender consideration whereof, and forasmuch as your Orator hath no way to be relieved in the Premises, and to be discharged of the said Monies but by the Aid and Assistance of this Honourable Court. To the end therefore that the said Confederates may answer the Premises, and that the said Lady S. and C. S. may interplead with each other touching the said sum of 5277 *l.* 10 *s.* and proceed with effect to a determination of their respective Rights and Properties in the said sum, and that your Orator may bring the same into this Honourable Court, and may thereupon or otherwise be discharged of the same, and may be indemnified against all Claims and Pretences of the said *M.* Lady S. and C. S. and either of them touching the said Mony; and your Orator on consideration of the whole matter may have such relief in the Premises, as shall be agreeable to

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to Equity and Good Conscience. May it please your Lordship to grant unto your Orator, not only your Lordships Letter to be directed to the said *M. Lady S.* and *James Earl of Salisbury*, desiring them to appear before your Lordship in this Honourable Court to answer the Premises, but also their Majesties most gracious Writ or Writs of Subpoena to be directed to the said *Sir W. B. S. P. E. S. J. F.* and *C. S.* thereby Commanding them at a certain day, and under a certain pain therein to be limited, Personally, &c.

E. Foden.

The Plaintiff *Sir E. D.* maketh Oath, That this Bill is exhibited by him voluntarily on his own Account, and at his own Costs, and not at the Desire or by the Persuasion, or at the Costs of any of the Parties, Defendants to the same.

Plaintiff

Plaintiff having lent 4000 l. to Lord S. on Assignment of his share, of the Purchase-mony of the Earl of S. his Father-in-law's Estate, by Act of Parliament vested in Trustees to be sold, and the Lord S. dying before payment, and his Lady and Administratrix claiming the same, and the Purchaser keeping the Mony in his Hands, exhibits his Bill for Relief against the Lady S. and the Purchaser.

HUmbly complaining sheweth, &c. your Orator C. S. of London, Goldsmith, That the Right Honourable James late Earl of Salisbury deceased, did some time before his death, which hapned on or about the Month of, &c. make his last Will and Testament in Writing, intending thereby to make an Ample Provision for his Family; and amongst other Bequests in the said Will mentioned, he the said Earl did thereby give and bequeath to the Lady M. his Daughter, the sum of ten thousand pounds of lawful Mony of *England* for her Portion, and by his said Will did charge his Mannor of C. amongst other things for the payment thereof. And afterwards by an Act of Parliament, made in the Year of our Lord 1691. by consent of the Right Honourable James Earl of Salisbury, Son and Heir of the said late Earl, upon the Petition of the Younger Children and Creditors of the said late Earl or some of them, for the better settling and securing the payment of the Portions, Bequests
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and Debts of the said late Earl, It is Enacted that the said Mannors and Lands amongst others, should be vested in Sir *W. B. Baronet, S. P. Esquire, E. S. Esquire and J. F. Gentleman*, and their Heirs, in Trust, that they by making Mortgages, or by absolute sale of the Premises, should raise and pay the several sums of Money remaining due to the Daughters and Younger Sons of the said late Earl, and other the sums of Money in the said Act appointed to be paid; and that the Purchasers should hold the Lands and Premises so sold, discharged of the said Portions or Bequests, and other Monies appointed to be paid; so as the Monies raised by such Sale should be paid towards the discharge or satisfaction of such Bequests, and other Monies payable by the said Act. And it was, and is further Enacted by the said Act, that the said Trustees might order and appoint how the Monies raised by Sale or Mortgage should be applied for satisfaction of the Persons concerned therein; as by the said Act, relation thereunto being had, doth and may appear. And your Orator further sheweth, That the Trustees in pursuance of the Trust reposed in them by the said Act of Parliament, and by consent of the said *James* now Earl of *S.* did agree to sell the said Mannor of *C.* and Lands thereunto belonging among other things, to Sir *E. D. of London*, Knight, and his Heirs, for the sum of 17500 *l.* and by the like consent of the said Earl, did appoint the said sums to be paid in manner as followeth, (*viz.*) To the Most Re-

Reverend Father in God, *John* now Lord Arch-Bishop of *Canterbury*, the sum of 532 *l.* 10 *s.* in full satisfaction of all his demands, to the Right Honourable *John* Lord *Stawell*, since deceased, the late Husband of the said Lady *M.* the sum of 5277 *l.* 10 *s.* in part and towards satisfaction of the sum of 9745 *l.* 17 *s.* 6 *d.* by the said Act limited and appointed, to be paid to him as the said Lady *M.*'s Portion as aforesaid; and to the Honourable *Robert Cecill* Esquire, the sum of 6440 *l.* and to Sir *W. F.* the sum of 4950 *l.* in full of all their demands, by virtue of the Will of the said late Earl of *Salisbury*, the said Sir *W. F.* having Married the Lady *Mary*, one other of the Daughters of the said late Earl of *Salisbury*. And your Orator further sheweth, That by Indenture Sextipartite, bearing date the third day of *May* 1692. made between the said *J.* Earl of *Salisbury* and *Frances* his Wife of the first part, the said Sir *W. B.* and other the said Trustees of the second part; the said *John* Lord Arch-Bishop of *Canterbury*, *John* Lord *Stawell*, *R. Cecill*, Sir *W. F.* and Sir *R. D.* Knight, of the third part, *J. H.* Gentleman of the fourth part, Sir *E. D.* of the fifth part, and *W. D.* Son and Heir apparent of the said Sir *E. D.* of the sixth part, and in pursuance of the said Act of Parliament, and in execution of the Trust reposed in the said Trustees, they by the consent of the said Earl, who was a Party consenting thereto, did convey and assure by good Conveyances in the Law the said Mannor

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and Premisses to the said Sir E. D. (or in trust for him) and his Heirs, as in and by the said Deeds duly executed by and between all the said Parties, and by Fine or Recovery thereupon had, levied and suffered between them when produced, will appear. And your Orator sheweth, That in full execution of the said Contract and Purchase so made by the said Sir E. D. he the said Lord Stawell did give a Receipt for the said sum of 5277 l. 10 s. endorsed on the said Deed of Purchase as thereon is to be seen in these words following, (*viz.*) *Received the two and twentieth day of November Anno Dom. one thousand six hundred ninety two, by me the within named John Lord Stawell, the sum of five thousand two hundred and seventy seven pounds and ten shillings of lawful Money of England, of and from the within named Sir E. D. being the Consideration-mony within mentioned, to be to me by him paid, and is parcel of the sum of seventeen thousand five hundred pounds, the Purchase-mony for the Premisses within granted and conveyed. I say received five thousand two hundred seventy seven pounds ten shillings* Stawell.

And the same day and at the same time the said Lord S. wrote a Letter to the said Sir E. D. in these words following, (*viz.*) the two and twentieth of November one thousand six hundred ninety two, Sir I desire you will pay the sum of five thousand two hundred seventy seven pounds ten shillings, for which I have already given you a Receipt upon your Deed of Purchase from the Earl of Salisbury

unto

unto Mr. C. H. whose Receipt shall be your
discharge from your Friend, Stawell.

as in and by the said Letter ready to be produced appeareth; which said Letter was so wrote by the said Lord S. for and upon the account and consideration, that your Orator had before that supplied the said Lord S. with the sum of 4000 l. as hereafter is mentioned; and for security hereof he agreed to assign to your Orator the said sum of 5277 l. 10 s. and which he knew, as also did your Orator, would be good payment when the Purchase-mony for the said Mannor and Premisses came to be paid, and in confidence thereof your Orator did really and *bona fide* lend and pay to, or to the use, or to the Order of the said Lord S. at several times, the sum of four thousand pounds. And in consideration thereof the said Lord S. by his Deed, dated the one and twentieth of *July*, one thousand six hundred ninety two, reciting the said late Earl of *Salisbury's* Will, and the Portion of ten thousand pounds thereby bequeathed to the said Lady *M.* and the said Act of Parliament, and a Recognizance dated the sixteenth of *June* then last past, entred into by the said Lord S. to your Orator for payment of three thousand pounds lent by your Orator to the said Lord S. And that your Orator had then lent one thousand pounds more, which made up the sum of four thousand pounds, did Bargain, Sell, Assign and Set over to your Orator, his Executors, Administrators and Assigns, the said sum of ten

thousand pounds, or such part thereof as should be due to him, and intended to be raised and paid by the said Act of Parliament, and thereby impowred your Orator to receive the said Mony: But under this Proviso and Condition, That if the said Lord S. his Executors or Administrators did pay your Orator the said sum of four thousand pounds with Interest, on the nine and twentieth day of *September*, one thousand six hundred ninety two, then the said Deed to be void, as in and by the said Deed ready to be produced, and duly executed under the Hand and Seal of the said Lord S. may more fully and more at large appear. And your Orator further sheweth, That the said Lord S. did not only fail in paying the said four thousand pounds with Interest to your Orator, but he afterwards about the nineteenth of *September* last, did borrow of your Orator one hundred pounds more. And the said Lord S. by his Steward Mr. *Sherwood* did afterwards (*viz.*) about the nineteenth day of *November* last draw a Bill of three hundred pounds for his Lordship's account to *J. D.* therein named, desiring your Orator on ten days sight to pay to him the said *J. D.* three hundred pounds, which said sums of one hundred pounds and three hundred pounds the said Lord S. did agree and promise your Orator should be repaid him out of the said 5277 *l.* 10 *s.* in Sir *E. D.* his Hands. And in pursuance of such his said Promise and Agreement, the said Lord S. did as aforesaid on the two and
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twentieth day of *November*, one thousand six hundred ninety two, Sign and make the said subsequent Order or Letter for your Orators receiving the said sum of five thousand two hundred seventy seven pounds and ten shillings of the said Sir E. D. the better to pay himself, not only the said former sum of four thousand pounds and Interest, but also the said further sum of four hundred pounds so lent and paid as aforesaid, and upon that Assurance and Credit your Orator did lend the said one hundred pounds to the Lord S. and did accept the Bill, and afterwards paid the said three hundred pounds to the said J.D. accordingly. And your Orator sheweth, That the said Deed of Purchase being duly executed by the said Lord S. and a Receipt by him given on the two and twentieth day of *November*, one thousand six hundred ninety two, to the said Sir. E. D. for the said five thousand two hundred seventy seven pounds ten shillings, being the Mony appointed out of the Sale of the said Mannor and Premisses to be paid to the said Lord S. as aforesaid. And the same being by his said Lordship to be paid to your Orator in manner as aforesaid. And the said Sir E. D. having had due notice of the said Lord S's Letter or Order to pay the same accordingly, he ought forthwith to have paid to your Orator the said sum of five thousand two hundred seventy seven pound ten shillings, and which he fully intended, and accordingly appointed your Orator a day to come to *Salisbury-House* to receive

the same; and your Orator did accordingly attend at the time and place appointed, and expected to have received the said sum which he ought then to have received, the sole property thereof being vested in your Orator as a security to him as aforesaid. But now so it is, may it please your Lordship, That the said Sir *E. D.* minding to keep the Mony in his Hands, or for some other reason not understood by your Orator, then refused to pay the said sum or any part of it to your Orator, although he paid all other the sums of Mony in the said deed of Purchase mentioned, to the other Parties therein named, according to the direction and appointment therein mentioned; and soon after the said Lord *S.* died. And now the said Sir *E. D.* combining and confederating with other the Creditors of the said Lord *S.* and with several Persons unknown, and with the said Lady *M. S.* the Widow and Relict of the said Lord *S.* and who hath taken out Letters of Administration of his Personal Estate, Goods and Chattels, doth refuse to pay your Orator the said sum of four thousand pounds or any part of it, or any Interest for the same; as also the said further sum of four hundred pounds, which your Orator so really and truly lent, and paid to and for the said Lord *S.* as aforesaid upon the Credit and Security of the said Deed of Mortgage and Subsequent Order so made to your Orator as aforesaid; and also the sum of thirty pounds for the making and finishing three dozen of Silver Plates made by the

the Order, and for the use of the said Lord S. and were ready to have been delivered to him, and had so been in case he had not so suddenly died as he did, and are yet ready to be delivered to the said Lady M. she paying the price for the same being one hundred eighty eight pounds six shillings; but if she please to refuse the same, yet the charge of making and Fashion being thirty pounds as aforesaid, ought to be answered to your Orator, he having undertaken to provide the same by the Order of the said Lord S. upon the Credit of the Mony assigned to your Orator as aforesaid. And your Orator hath offered, and is willing to accept or take his principal sum of four thousand four hundred pounds with Interest, with the said thirty pounds which is due, and his Costs and Charges, and assign and deliver up his Securities, and either to pay the remainder of the said five thousand two hundred seventy seven pounds ten shillings to the said Lady M. or consent that the said Sir E. D. shall so do. And now it is pretended, that since the death of the said Lord S. your Orators authority to receive the said sum is void, and that he hath no lawful right to receive the same, and the said Lady M. claims the same as part of her said Husbands Personal Estate, and that she must apply it to the payment of Debts of a higher value. And the said Sir E. D. pretends he cannot safely pay it to your Orator without the consent of the said Lady M. or Receipt for the same, or be otherwise indemnified or saved harmless:

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less: And the said Lady *M.* refuseth to give any such consent or receipt, contrary to Equity and Good Conscience. In tender consideration whereof, and forasmuch as your Orator hath no property in the said sum of five thousand two hundred seventy seven pounds ten shillings, save only as aforesaid, and cannot therefore recover the same at Law, nor can prevent the said Lady *M.* from calling your Orator to an account for the remainder of the Mony after your Orator is paid and satisfied his just Debt due as aforesaid, at any time when she pleaseth in case the said sum of five thousand two hundred seventy seven pounds and ten shillings be paid to your Orator; and for that your Orators Witnesses who could prove the Premises, are either dead or gone into parts remote and beyond the Seas, and is therefore only relievable in the Premises by the aid of this Honourable Court. To the end and intent therefore that the said Confederates who know the Premises to be true, may true and perfect answer make thereunto, as if particularly interrogated and repeated, and may shew cause why your Orator should not be paid his said Mony so due as aforesaid, with his Interest and Costs, and why the said Lady *M.* should not be foreclosed of any pretence to an account or claim of the remainder of the said sum of five thousand two hundred seventy seven pounds and ten shillings, unless she will consent to the payment of what is so due as aforesaid, to your Orator, and accept the remainder of the said

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said five thousand two hundred seventy seven pounds and ten shillings: And to the end your Orator may be relieved in the Premises according to Equity and Good Conscience; May it please your Lordship, the Premises considered, to grant unto your Orator your Lordships Letter to be directed unto the said Lady *M. S.* as also their Majesties most gracious Writ of Subpena to be directed to the said Sir *E. D.* Knight, thereby requiring them at a certain time and under a certain pain therein to be limited, Personally to be and appear before your Lordship in this Honourable Court, and to answer all and singular the Premises; and further to stand to and abide such Order, Rule and Decree as your Lordship in justice shall think proper for your Orators Relief in the Premises, and your Orator shall ever pray, &c.

Plaintiff

Plaintiff being possessed of a Lea^y for 99 years, determinable for three Lives, Mortgages the same to T. C. who by Plaintiffs consent Mortgages to Defendant by Indenture of Agreement, being to reconvey to Plaintiff upon payment of a sum of Money, Defendant having entred and received Profits to satisfy the same with an overplus: Plaintiff exhibits his Bill to compel him to reconvey and account.

HUmblly complaining sheweth, &c. Your Orator J. S. of C. in the County of Gloucester, Mariner, That your Orator about the Month of *August*, in the Year of our Lord one thousand six hundred seventy four, being interested in and possessed of a Toft, Tenement, and other Hereditaments in C. aforesaid, of the clear yearly value of 10 l. for and during the Natural Lives of one J. C. *Bridget* his Wife and *Jane* their Daughter, and the longest liver of them; and having occasion to borrow Money, applied himself to one T. C. of the City of *Bristol* Merchant, who lent unto your Orator the sum of 50 l. for securing the payment whereof, your Orator by Indenture of Mortgage, dated on or about the 24th day of *August*, in the aforesaid year of our Lord God one thousand six hundred seventy four, did Demise, Grant, and to Farm, let unto the said T. C. the aforesaid Toft, Tenement, and other Hereditaments, and all his your Orators Estate,

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Term and Interest therein, for and during the Time or Term of ninety years, if they the said *J. G. Bridget* his Wife and *Joan* their Daughter, or any or either of them should so long live, subject nevertheless to a Proviso therein contained, That the same should be void upon his your Orators repayment of the said sum of fifty pounds with Interest, at a certain day therein expressed, as by the said recited Indenture of Mortgage, had your Orator the same to produce, would more fully appear. And your Orator further sheweth unto your Lordship, That by Indenture of Assignment, dated on or about the 24th of *August*, in the Year of our Lord 1674. The said *T. C.* for and in consideration of the sum of, &c. to him in hand paid by *J. N. of C.* aforesaid in the County of *Gloucester*, Shipwright, did, by and with the consent of your Orator, Bargain, Sell, Assign and Set over unto him the said *J. N.* the aforesaid Toft, Tenement and other Hereditaments, together with the said recited Indenture of Mortgage, for and during all the residue of the aforesaid Term of ninety nine Years, if they the said *J. G. Bridget* his Wife and *Joan* their Daughter, or any or either of them should so long live, as by the said Indenture of Assignment, if your Orator had the same to produce, would likewise more fully appear. And your Orator further sheweth unto your Lordship, That upon Indenture of Agreement, dated on or about the 25th day of *October*, in the aforesaid year of our Lord,

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Lord', one thousand six hundred seventy four, and made between the said *J. N.* of the one part, and your Orator of the other part. The said *J. N.* for himself, his Executors, &c. thereby Covenanted upon his your Orators paying unto him the sum of 28 *l.* 10 *s.* upon the 25th day of *April*, then next after the date of the said Indenture of Agreement, that then he the said *J. N.* would reconvey the aforesaid Toft, Tenement, and other Hereditaments unto your Orator, or such other Person as your Orator should direct and appoint, as by the said Indenture of Agreement, if your Orator had the same to produce, would likewise more fully appear. But it seems your Orator hapning to make default of payment of the said 28 *l.* 10 *s.* pursuant to the Covenant in the said recited Indenture of Agreement mentioned, the said *J. N.* entred into the possession thereof, and hath for these fifteen years and upwards received the Rents, Issues and Profits, which were yearly worth 10 *l.* during which time by such perception of Profits, the said 28 *l.* 10 *s.* with all Interest due for the same is paid, with a great deal of overplus; and in all Equity and Good Conscience, the said *J. N.* ought to deliver up the possession of all the Premisses to your Orator, and ought to make an account to your Orator for what he hath received above the said 28 *l.* 10 *s.* and Interest, and ought also to deliver up all the Deeds, Writings and Evidences which relate thereunto. But now so it is, may it please your Lordship,

ship, That the said J. N. Combining and Confederating with divers other Persons unknown to your Orator, whose Names when discovered, your Orator prays may be inserted in this his Bill with apt words to charge them. To the end the said J. N. may keep your Orator out of the possession, and still receive the Rents and Profits to himself, the said J. N. doth not only refuse to deliver the possession of the said Toft, Tenement, and other Hereditaments to your Orator, but also doth deny to give your Orator any account what he hath received out of the Premisses, though your Orator hath several times civilly intreated him to do the same. All which doings of the said J. N. are contrary to Equity and Good Conscience, and tend very much to the loss and prejudice of your Orator. In tender consideration whereof; and forasmuch as your Orator cannot by the Common Laws of this Realm bring the said J. N. to any account, nor obtain any relief thereupon unless by the aid and assistance of this Honourable Court, and the rather by reason your Orators Witnesses that can make out the truth of the Premisses are either dead, &c. so that the truth of the Premisses cannot be known but by the Oath of the said J. N. To the end therefore that the said J. N. and the rest of the Confederates when discovered, may upon their several Oaths true and full answer make to all and singular the Premisses; and particularly that the said J. N. may set forth what
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Title he claims to the said Toft, Tenement, and other Hereditaments, and what Deeds, Writings and Evidences he hath in his Custody or in the Custody of any other, or what other Person with his privity that relate thereunto; and whether there was really and *bona fide* due to him any more than 28 l. 10 s. and that upon payment thereof, pursuant to the Indenture of Agreement, he was not to reconvey the same to your Orator; and may set forth the true yearly value of the said Toft, Tenement, and other Hereditaments, and how much hath been received out of the Rents, Issues and Profits of the same, either by him or by any other Person for his use; and may also set forth how long he hath had the possession or received the Profits thereof; and may full and perfect answer make to all and singular other the matters and things in this Bill contained, and all the circumstances thereof, as fully and particularly in every respect, as if the same were all repeated and particularly interrogated. And further, That the said J. N. may by the Decree of this Honourable Court, not only be compelled to reconvey the said Tenement, Toft, and other the Hereditaments to your Orator, but also to come to a full and just account with your Orator, and render unto him what shall appear to be due: And that your Orator may be relieved in the Premises according to Equity and Good Conscience. May it please your Lordship to grant, &c.

Plaintiff

Plaintiffs Executors of K. N. there being arrears of an Annuity due to her at her death, chargeable upon the Defendant Sir A. N's Lands by virtue of an Indenture of Grant made by Sir J. N. Sir A. N's Father, and the said Sir A. for the Life of K. N. and her Husband; and Sir J. N. making some settlement afterwards to L. N. his younger Son, charges upon it 10 l. per Annum, part of the said Annuity. K. N. arrested the said Sir A. N. for the Annuity, who entred into Bond for the payment of the same; and Bond being left in her Attorney's hands, who dies, and supposed to come to the hands of Defendant Sir A. and Sir A. having exhibited his Bill against L. N. and the surviving Executor of Sir J. N. and there being a Decree for L. N. to pay the 10 l. per Annum, part of the Annuity of 30 l. per Annum, and the whole Arrears of the Annuity at the death of K. N. being 270 l. and upwards, The Plaintiffs exhibit their Bill for the Arrears.

Humbly, &c. Your Orators T. R. of London, Gent. J. R. of S. in the County of D. and W. R. of the same in the said County, Gentlemen, Executors of the last Will and Testament in Writing of K. N. late of H. in the County of M. Widow deceased, who was Relict and sole Executrix of the last Will and Testament in Writing of W. N. late of C. in the said County of D.

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her late Husband deceased. That Sir J. N. late of H. within the Parish of N. in the said County of D. Baronet, being in his Lifetime, that is to say, in the Year of our Lord Christ, &c. and also at the time of his death, seized in his Demesne as of Fee of, and in divers Mannors, Messuages, Lands, Tenements and Hereditaments within the said County of D. of the clear value of 2000*l. per Annum* and upwards, or of some other great yearly value. He the said Sir J. N. together with A. N. his Son and Heir then apparent, now Sir A. N. Baronet, by Indenture bearing date the twelfth day of *January*, in the said Year of our Lord, &c. made between him the said Sir J. N. and the said A. N. his Son and Heir then apparent of the one part, and the said W. N. of the other part, for the Considerations therein mentioned, did Give, Convey, Set-over, Grant and Confirm unto the said W. N. his Executors and Assigns, one Annuity or Yearly Rent of thirty Pounds *per Annum* of lawful Mony of *England*, quarterly to be paid and clearly discharged, then and at all times then-after of all Taxes according to any proportion thereof that should be imposed, that is to say, seven Pounds ten Shillings thereof at the Nativity of St. *John* the Baptist then next ensuing, St. *Michael* the Archangel, the Birth of our Lord God, and the Annunciation of our Blessed Lady *Mary* the Virgin in every year, to be issuing out of those several Lands and Tenements which then were in the possession of Sir J. N. and
A. N.

A. N. either and every of them within the said County of *Devon* and elsewhere, To have and to hold the said Annuity or Yearly Rent of thirty Pounds unto the said *W. N.* his Executors and Assigns, from the four and twentieth day of *June* then next ensuing, for fourscore and nineteen years fully to be compleat and ended, if he the said *W. N.* and the said *K.* his Wife, or either of them should so long live. And if the said Annuity or Yearly Rent of thirty Pounds should be behind or unpaid in part or in all, by the space of forty days after it should become due, being lawfully demanded, that then it should be lawful to and for the said *W. N.* and his Assigns from time to time for the same to distrain on any of the said Lands of the said Sir *J. N.* or the said *A. N.* at the Will, Election and Choice of him the said *W. N.* and his Assigns to whom the said Annuity or Yearly Rent should happen to be due; and the said distress or distresses from time to time so taken, to carry away impound and keep, and after six days warning to sell, returning the overplus to the Owner thereof, until just satisfaction for the said Annuity so being behind, and every part thereof, together with such reasonable Costs and Charges, as he to whom the said Annuity (should by virtue of the said recited Grant become due) should be put unto, for or by reason of the distress so to be taken as aforesaid, with Covenant therein from the said Sir *J. N.* and *A. N.* to the said *W. N.* and his Assigns, to do

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any other or further Act or Acts, Thing or Things for the sure making of the Premises, when he or they should be reasonably requested thereunto, according to the true intent and meaning of the said Indenture; as in and by the said Indenture, under the Hands and Seals of the said Sir J. N. and A. N. duly executed, had your Orator the same to produce to this Honourable Court, would more at large appear. And your Orators further shew, That afterwards, that is to say, about the Year of our Lord 1670. the said Sir J. N. making some settlement of some part of his said Lands in the said County of D. upon L. N. one of his his younger Sons, he did charge upon the same the payment of the sum of ten Pounds *per Annum*, which he directed should be paid in or towards part of the said Yearly Rent of 30 *l. per Annum* Annuity to the said K. N. or her Assigns, for and during her Natural Life, or there was some Proviso, Condition, Obligation, Covenant or Agreement by the said L. N. to the said Sir J. N. or some other, for the payment of the said ten Pounds *per Annum*, part of the said Rent of thirty Pounds *per Annum*, to the said K. N. or her Assigns, for and during her Natural Life, or some provision for that purpose, which if your Orator had the Deeds or Writings that were made by and between the said Sir J. N. and the said L. N. touching the same, to produce to this Honourable Court, would more fully appear, but the same are in the Hands, Custody and Power

or

or Privity of the said Confederates herein after named, or some or one of them; and they ought to produce the same for the satisfaction of this Court therein. And your Orators shew, That afterwards the said Sir A. N. having contracted great Debts, the said Sir J. N. together with the said Sir A. N. settled all his Estate upon Trustees, but whom your Orators know not, for payment of Debts, and particularly of Debts of him the said Sir J. N. and all Annuities and Incumbrances created by him the said Sir J. N. and Sir A. N. and by subsequent Agreements and Deeds contrived amongst them, the Estate was to be charged with the payment thereof, all which the Confederates herein after named, have in their hands or privity, but conceal the same. And your Orators further shew, That in pursuance of the said herein first recited Indenture of Grant, received and had of the said Sir J. N. and A. N. or one of them, the said Annuity or Yearly Rent of thirty Pounds for divers Years then after, for and during his Natural Life, that is to say, until the year 1664. And from and after his decease, the said K. the Relict and sole Executrix of the said last Will of the said W. N. and to whom he thereby gave the residue of all and singular his Goods and Chattels, and Personal Estate, having in due form of Law proved the said Will, and taken upon her the execution thereof, did by virtue thereof and of the aforesaid Indenture, receive the said Rent of thirty Pounds *per Annum* for divers

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years then after, of the said Sir *J. N.* whilst he lived, that is to say, until about the year of our Lord Christ 1675. about which time the said Sir *J. N.* died, leaving his Estate so settled in Trustees as aforesaid; and having first made his last Will and Testament in Writing, and *W. N.* his Son, and *J. N.* his Grandson Executors thereof, to whose or one of whose Hands, Custody, Power or Privy there is come since the death of the said Sir *J. N.* Personal Estate of his sufficient to pay all and singular his just Debts due and owing at his decease, or at least sufficient to pay your Orators the arrears of the said Annuities, and the same ought to be applied thereunto. And the said *John* the Executor is since dead, leaving *Alice* his Relict and Executrix, and sufficient Affets; and the said *W. N.* is now surviving Executor of Sir *J. N.* and hath also married the said *Alice* the Executrix of the said *J.* And the said Sir *J. N.* did also leave the said *A. N.* now Sir *A. N.* his eldest Son and Heir, and his Estate so settled in Trustees for payment of his Debts and Annuities as aforesaid, to the value of 2000 *l. per Annum* and upwards, or some other great value, which by some provision or settlement made by the said Sir *J. N.* were charged with the said Annuities of 30 *l. per Annum* and the arrears thereof, or of some part thereof. And the said Sir *A. N.* is seized and possessed of divers or some other Messuages, Lands, Tenements, Hereditaments and Premises in the said County
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of D. or elsewhere, which he now holdeth and enjoyeth, by or from some other Person or Persons, or upon some other Right, Title or Interest, or for some Estate to the value of 500 *l. per Annum* and upwards, or some other considerable value, but charged nevertheless with the said Annuity and the arrears thereof in manner as aforesaid. And your Orators shew, That the said Sir A. N. from and after the death of the said J. N. neglecting to pay to the said K. N. or any on her behalf, the said Rent of 30 *l. per Annum* or any part thereof, although the said K. N. by her self and her Agents did often in fair and friendly manner request and demand of the said Sir A. N. the payment thereof; neither did the said L. N. pay to the said K. N. or any for her the said sum of 10 *l. per Annum* or any part thereof according to his agreement and ingagement to and with the said Sir J. N. And also the said W. N. the surviving Executor of the said J. N. refusing or neglecting to pay the Arrears of the said Annuity at his death, and there being then due to the said K. for the Arrears of the said Annuity of 30 *l. per Annum*, the sum of one hundred and eighty Pounds and upwards, thereupon the said K. did procure the said A. N. to be Arrested for the same: And being so Arrested, he the said Sir A. N. did send unto and acquaint the said K. N. that he was not then furnished with present Mony to pay the said Arrears, but that he would give her his Bond or Ingagement in Writing to pay her the same in some short

time then after, or to some such effect, did by his Wife the Lady N. or otherwise, desire and very much sollicit and importune the said K. N. to take such Bond or Ingagement and to free him from the said Arrest, or then Action or Suit brought against him; and the said K. N. being prevailed upon so to do, the said Sir A. N. (as your Orators have heard and believe) did enter into some Bond or some Ingagement, Covenant or Agreement in Writing, to pay to the said K. her Executors or Administrators the Arrears of the said Annuity of 30 *l. per Annum* then due, the which Bond or Writing was delivered or left in the Hands or Custody of one Mr. F. of E. the said K's Attorney, or into the Hands or Custody of his Clerk or Servant, or some other for the use and benefit of the said K. N. And the said Mr. F. shortly or some time then after dying, your Orators know not what is become of the same, but have heard and believe that the said Sir A. N. or some one on his behalf and with his privity, by some ways or means got the said Bond or Writing for payment of the said Arrears of the said Annuity then due, into his Hands or Power, or the same is come into the Hands or Power of the said Sir A. N. or of some other Person or Persons on his behalf and with his privity, and he hath cancelled and made void, or otherwise conceals, detains and keeps the same, and sometimes denieth to have the same, and otherwhiles refuseth to deliver the same. The which Bond or Security was only given

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as a further Security for so much of the said Arrears, and accordingly ought to be produced and made use of for your Orators benefit, but was not to free or discharge the said Lands from the said Annuity and the Arrears thereof. And your Orators further shew, That the said Sir A. N. designing and contriving if he could to defeat the said K. N. of the said Annuity of 30 *l. per Annum* and of all the Arrears thereof, and to free himself from payment of the same, in or about the year of our Lord 1680. exhibited his Bill in this Honourable Court, for that purpose against the said K. N. and the said L. N. and against W. N. the surviving Executor of the said Sir J. N. deceased and others, and did amongst other matters therein contained set forth, that the said Sir J. N. had drawn him the said Sir A. the then Plaintiff to secure a Rent of 30 *l. per Annum* to the said W. N. for his and the then Defendant K. his Wives Lives by a Charge upon Lands on his the said Sir John's Promise, to indemnifie the then Plaintiff against the same, which then the Defendant W. M. his surviving Executor refused to perform, though he had Assets sufficient as was thereby suggested. And that the then Defendant L. N's Lands stood chargeable with 10 *l. per Annum* thereof, though he refused to pay the same, and prayed to be relieved against the said Rent-charge or Annuity to the said K. N. To which Bill the then Defendants put in their Answers. And the said K. N. did in and by her then Answer set forth her Right, Title
and

and Interest unto and in the said Annuity or Rent-charge of 30 *l. per Annum* as aforesaid. And she and all the then Defendants did deny that they ever knew or believed that the said Sir *J. N.* made or was under any Promise or Engagement to indemnifie the said then Plaintiff Sir *A. N.* against the said Rent-charge of 30 *l. per Annum*. But *R.* a Trustee of the said Sir *J. N.* and the said *L. N.* did acknowledge and admit that the said *L. N.* held Lands chargeable with ten Pounds *per Annum*, which was to go and be paid towards satisfaction of the said Rent-charge of 30 *l. per Annum*, and never pretended any thing to the contrary. And Issue being joined in the said Cause, divers Witnesses were examined on both sides, and publication of the said Examinations having past the 11th day of *June*, in the thirty fifth year of the Reign of our late Sovereign Lord King *Charles* the Second, the said Cause came to hearing in the said Court before the Right Honourable *Francis* Lord *North*, then and late Lord Keeper of the Great Seal of *England*; and the Matter being long debated, and the Proofs taken in the said Cause read, his Lordship did then Order and Decree, that as touching the said Rent-charge or Annuity of 30 *l. per Annum* demanded of the then Plaintiff by the said *K. N.* That the said *L. N.* should pay, free and discharge the said then Plaintiff against 10 *l. per Annum* thereof, out of the Profits of the Lands settled upon him by the said Sir *J. N.* for that end: And that the then Plaintiff Sir *A. N.*

A. N. should be only chargeable with 20 *l. per Annum* of the same, and with no greater proportion ever since the said Sir *J. N.*'s death; as in and by the said Bill, Answers and Decree, all of Record in this Honourable Court, and to which for more certainty your Orators refer themselves, may more fully and at large appear. And your Orators further shew, That in or about the Month of *April*, in the year of our Lord 1684. the said *K. N.* departed this Life (there being then due for the Arrears of the said Annuity of 30 *l. per Annum* 270 *l.* and upwards, besides her Costs and Charges) she having first made her last Will and Testament in Writing, and your Orators Executors thereof. And your Orator *T. R.* hath proved the said Will in the Perrogative Court of *Canterbury* in due form of Law, and taken upon him the Burden of the Execution thereof; and upon the Probate of the said Will, Power is reserved to your Orators *J. R.* and *W. R.* to make Probat of the said Will, and take upon them the Execution thereof, as by the said Probat thereof under Seal of the said Court ready to be produced, it may more fully appear; and your Orators are thereby well intituled to the Arrears of the said Annuity or Rent-charge of 30 *l. per Annum*, due unto and at the death of the said *K. N.* and to have, receive and enjoy the same with Damages, and their Costs and Charges which they or their Testatrix have or shall be put unto for the obtaining thereof. And your Orators are also well intituled unto,

unto, and ought to have the benefit and advantage of the said Decree made for the payment of the said Annuity or Rent-charge of 30 *l. per Annum* to the said K. N. And your Orators pray they may have liberty to proceed thereupon, and have the same advantage thereby against the said Sir A. N. and L. N. in all respects as the said K. N. might have done in case she had been living, and also the benefit of all other securities for the payment of the said Annuity and the Arrears thereof. But now so it is may it please your Lordship, that the said K. N. being dead, and the said Sir A. N. and L. N. designing and contriving to defeat and defraud your Orators of the Arrears of the said Annuity of 30 *l. per Annum* due unto the said K. at her death, amounting to 270 *l.* and upwards, for that purpose have combined and confederated by and between themselves, and to and with the said W. N. the surviving Executor of the said Sir J. N. and to and with divers other Persons to your Orators unknown, whose Names when discovered, your Orators pray may be inserted into this Bill, and they and every of them made Parties Defendants thereunto, with apt words to charge them, They the said Confederates Sir A. N. and L. N. by the Combination aforesaid do refuse to pay the Arrears of the said Annuity of 30 *l. per Annum* due unto and at the death of the said K. N. although your Orators by themselves and their Agents or Agent have often in a fair and friendly manner requested them

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respectively to do the same. And the said Confederates do now pretend and give out in speeches, and in particular the said Sir *A. N.* doth pretend and give out, that the said Sir *J. N.* and he the said Sir *A. N.* did never execute the said Indenture of Grant of the said Annuity herein before mentioned and set forth, and that the said *K. N.* had no Right or Title to the said Annuity of 30*l. per Annum* or to any Arrears thereof; and sometimes, that though she had a Right or Title to the said Annuity of 30*l. per Annum* for her Life, and that there were some Arrears thereof incurred, yet that she did give some Release or Discharge of the Arrears thereof due to her some short time before her decease, and sometimes that the said *K. N.* received the Arrears of the said Annuity, or most or great part thereof in her Life-time; and that there was not 270*l.* or any such great sum, but only some very small matter due to the said *K. N.* for the Arrears of the said Annuity of thirty Pounds *per Annum* at the time of her decease, and yet the said Confederates refuse to discover and set forth what and how much she received thereof, and what and how much was due to her for the same at the time of her death; whereas the said Confederates, and in particular the said *A. N.* doth well know, and so the Truth is, that he and the said late Sir *J. N.* did duly execute the said Indenture of Grant of the said Annuity of 30*l. per Annum* to the said *W. N.* as herein is before set forth;

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forth; and that the said *K. N.* after the death of the said *Walter* was well intituled to the same for her life; and that there was 270*l.* or some great sum incurred and grown due and owing to the said *K. N.* for the Arrears of the said Annuity of 30 *l. per Annum* at the time of her decease, besides all her Costs and Charges; and that she never received the said Arrears, or released or discharged the said Annuity or the said Arrears thereof due at her death or any part thereof: And the said *L. N.* pretends and gives out, that his Lands were not charged or liable to the payment of the said Annuity or any part thereof, or any Arrears of the same; and that he did not make any Contract or Agreement with the said late Sir *J. N.* or give any Bond, Covenant or other Ingagement concerning the same, nor had any consideration for doing the same: And the said *W. N.* pretends and gives out, that he hath not Assets of the said Sir *J. N.* sufficient to pay your Orators the Arrears of the said Annuity, and that he ought not to pay the same if he had Assets, but that the said Sir *A.* and *L. N.* ought to pay the same: And the said Confederates pretend, that they or either of them are not bound by the said Decree, nor will perform the same; and do also conceal all the Deeds and Writings and other Securities, whereby it would appear, that all the aforesaid Lands and Premises are chargeable with the said Annuity and the Arrears thereof. All which doings of the said Confederates are contrary

to Right, Equity and Good Conscience, and tend to your Orators wrong and prejudice. In tender consideration whereof, and forasmuch as your Orators are remediless in the Premisses by the strict Rules of the Common Laws of this Realm; all the said Deeds and Writings whereby the said Lands are charged with the said Rent, being detained, suppressed or concealed by the said Confederates, and the Witnesses that coul^d prove the Sealing and delivery of the said first mentioned Deed of Grant of the said Annuity by the said Sir J. N. and A. N. being all now dead or in parts remote and utterly unknown to your Orators, so that your Orators are not able to justifie and maintain taking Distress upon the Premisses; neither have your Orators any means to discover and have the said Bond which the said Sir A. N. gave for the said Arrears to that time due, and other the said Securities given for the payment thereof, and which is since come to the Hands, Power or Privy of the said Confederates some or one of them; neither in case your Orators must proceed to take their proportions of the Arrears of the said Annuity according to the proportion that the Decree appointed the said Annuity of 30*l. per Annum* to be paid to the said K. N. in her Life-time, have your Orators any means to inforce an execution and performance of the said Decree for the payment of the said Arrears by the said L. N. and the said Sir A. N. but by the aid and assistance of this Honourable Court.

To

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To the end therefore that the said Sir *A. N. L. N.* and *W. N.* and other the said Confe-
derates when their Names shall be discover-
ed, may upon their several Corporal Oaths,
true, full and particular Answers make to
all and every the matters and things herein
before charged and set forth, as fully and
amply in all respects, as if the same were here
again repeated and interrogated. And the
said Sir *A. N. L. N.* and *W. N.* some or one
of them may pay your Orators the said Ar-
rears of the said Annuity of 30 *l. per An-*
num, due at the death of the said *K. N.* with
the damages, and the Costs and Charges for
obtaining thereof; or that your Orators
may have such other and further relief in
this Honourable Court as shall be agreeable
to Equity. May it please, &c.

To

Complainant's Brother M. M. being indebted to him by Bond and otherwise in several great sums of Money, and likewise to J. M. Complainant's other Brother at his death, who by a nuncupative Will, made Plaintiff Executor; and being prevailed upon by his Brother M. M. not to prove the same, J. M. the Defendant, Son of M. M. after his Father's death being Executor and Heir to his Father, gets out also Letters of Administration to his Uncle. And his Father having by his Will given Plaintiff several Lands, and the reversion of an Inn and 200l. in Money; and Defendant after his Father's death altering the Will by adding a Codicil, and razing and blotting the Bequests of the Lands to the Plaintiff, yet so that with great difficulty the same may be read; and tearing and cancelling a Bond of his Father's which was shewed him by his Uncle without paying a penny of the Debt, Plaintiff exhibits this Bill to be paid his Father's and Uncle's Debts out of the Estate, and to examine his Witnesses, and to prove the Defendant's Father's Will in this Court as it was made by Testator without alterations.

To the Right Honourable the Lords Commissioners for the Custody of the Great Seal of England,

Humbly complaining, sheweth unto your Lordships P. M. of the City of Westminster, Gentleman; That one M. M. Brother to your said Orator did by his
I Writing

Writing Obligatory, dated on or about the ninth day of *October*, in the year 1660. acknowledge himself to be indebted to your said Orator in the sum of 90 *l.* of good and lawful Mony of *England*, and by the said Writing Obligatory, did bind himself his Heirs, Executors, Administrators and Assigns for the payment of the said sum of 90 *l.* And the aforesaid *M. M.* by his Note under his Hand, bearing date the seventh day of *April* one thousand six hundred seventy three, did also acknowledge himself to be indebted to your Orator in the sum of 145 *l.* 6 *s.* being the Ballance of all Accounts at that time between them, which said sum of 145 *l.* 6 *s.* is a distinct sum of it self from the said 90 *l.* And the said *M. M.* was also justly indebted unto one *J. M.* another Brother of your said Orators at the time of the death of the said *J. M.* which was on or about the beginning of *June* 1661. in the sum of 311 *l.* which said sum of 311 *l.* was lent to the said *M. M.* by the said *J. M.* on or about the three and twentieth day of *December* 1658. And your Orator further sheweth, That the said *J. M.* in his last sickness whereof he died, made a nuncupative Will, and made your Orator Executor thereof; which said Will your Orator intended several times to have proved in due Form in the Spiritual Court, but was prevailed upon from time to time by the great importunities and cunning insinuations of the said *M. M.* not to prove the same during the life of him the said *M. M.*

M. M. he the said *M. M.* continually promising and assuring your Orator that he would speedily pay or cause to be paid unto your Orator the aforesaid sum of 311 *l.* but your Orator sheweth, That after the death of the said *M. M.* *J. M.* Son of the said *M. M.* intending to defeat your said Orator of the said sum of 311 *l.* without the privity or knowledge of your Orator, applied himself to the Spiritual Court in *London*, and by fraud and circumvention, without ever mentioning the said nuncupative Will, though the said *J. M.* the hereafter named Defendant knew of the making thereof, and without mentioning that your said Orator was in being, or that your said Orator was Brother to him the said *J. M.* and by telling the Judge of the Spiritual Court, that he the said *J.* was the only Relation alive to him the said *J. M.* did obtain Letters of Administration of the Goods, Rights and Credits of the said *J. M.* his Uncle, upon these and other the like false suggestions, in order to defeat your said Orator of his said Mony which did belong to him as he was Executor of the said nuncupative Will. And your Orator further sheweth, That besides the said Bond for ninety Pounds, and the aforesaid Note of 145 *l.* 6 *s.* there was also an account between your said Orator and the said *M. M.* on which account the said *M.* was indebted to your said Orator in the sum of 589 *l.* 14 *s.* 1 *d.* beginning in time from the tenth of *April* 1673. and ending the tenth of *March* 1679.

consisting of a great number of *Items*, which account the said *M. M.* had in his Life-time, some time before his death, seen and owned to be due to your Orator. And your Orator further sheweth, That from the beginning of the year 1660. to the time of the death of the said *M. M.* your Orator went very often every year to him the said *M. M.* during the Life of the said *M. M.* and in a friendly manner desired him to pay the several sums of Mony that he owed your said Orator, and to even accounts; which said sums of Mony the said *M. M.* always acknowledged to be due and owing to your said Orator, and promised payment thereof, but deferred the same by telling your Orator, that he your said Orator wanted not Mony, and therefore desired your said Orator to forbear him from time to time, and that he would honestly pay your said Orator; and that in consideration of his kindness and forbearance for the aforementioned sums, he the said *M. M.* would not only provide for and take care to pay the Monies owing your said Orator as aforesaid with Interest for the same, but also by his last Will and Testament would give your Orator a considerable Legacy; and for that reason your Orator was not pressing for his said Monies due to him; and the said *J. M.* the herein after named Defendant, the Son of the said *M. M.* knew of these passages and transactions between him the said *M. M.* and your Orator. And your Orator further sheweth, That on

or

or about the fifth of *June*, one thousand six hundred eighty five, the said *M. M.* made his last Will and Testament in Writing, and made the said *John M.* his Son, the hereafter named Defendant, Executor thereof; which said *J. M.* is also Heir at Law to him the said *M. M.* and within four Months after the said Will made, he the said *M. M.* departed this Life, leaving sufficient assets to pay his Debts, and in and by the said Will the said *M. M.* did give unto your Orator several Lands in the Parish of *Bow*, in the said County of *Devon*, which was a Fee-simple Estate in possession in him the said *M. M.* at the time of his Death, and likewise his Lands in *Dunstar* in the said County of *Devonshire*, which was also a Fee-simple Estate in possession in him the said *M.* at the time of his Death. And by his said Will did also give to your said Orator and his Heirs, the reversion of a House or Inn called the *Black Swan with two Necks* in *St. John's Street* in the Parish of *Clerkenwell* in the County of *Middlesex*; and by his said Will gave unto your said Orator the sum of two hundred Pounds (*viz.*) one hundred Pounds to be paid within six Months after his death (fifty Pounds of which was to be paid to one *N. M.* for which he the said *M. M.* the Testator stood bound for your said Orator; and the other one hundred Pounds was to be paid at the end of two years if your said Orator should then be living: And the very words in the Will of the said *M. M.* which concerns the Be-

quest made thereby to your Orator are as followeth, I give and bequeath unto my Brother P. M. and his Heirs, all my Estate, Right, Title and Interest of, in and to all my Lands lying (not in the Town, but) in the Parish of Bow in Devonshire, formerly in the possession of Nicholas Darby, and also one House and half Acre of Land more or less, lying in Dunstar in Somersetshire, and all Rents and Arrearages of Rents due for the same: And further give unto my said Brother P. M. and his Heirs the reversion and reversions of that House or Inn, known by the Name or Sign of the Black Swan with two Necks, in St. John Street near Hicks his Hall in Middlesex. And I moreover give unto my said Brother P. M. two hundred Pounds of good and lawful Money of England (viz.) one hundred Pounds, part thereof to be paid unto him within the space of six Months next after my decease, (fifty Pounds of which is to be paid to N. M. for which I stand bound) and the other one hundred Pounds residue thereof, at the end of two years after my decease. As by the said Will remaining in the Prerogative Court of Canterbury, relation being thereunto had, doth more fully appear. And your said Orator very well deserved the said Lands given him by the said M. M's Will, for that your Orator was very advantageous by his Advice given to him the said M. in the affairs of his Trade, and that he was the making of him in his worldly Estate; and this is well known to J. M. the hereafter named Defendant, who hath been present several times when your said

said Orator had advised the said *M. M.*
 what to do in his Trade; and he the said
J. hath thanked several times your said Ora-
 tor for his advice and assistance given to the
 said *M. M.* his Father. And your Orator
 further sheweth, That there is a Codicil an-
 nexed to the said Will of the said *M. M.*
 and three Witnesses to the said Codicil, in
 these words; *Whereas there is in the second Sheet*
six Lines and three pieces of Lines blotted out,
and two interlinings; containing in the first
interlining, these words (viz.) fifty Pounds,
which is to be paid to N. M. for which I stand
bound; and in the second interlining, the word
[fifty] put in, I acknowledge it to be my own
alteration, and made by me and with my Hand
this eighth day of December, one thousand six
hundred eighty and five M. M. Witness T. D.
J. A. his mark J. L. And your Orator fur-
 ther sheweth, That since the death of the
 said *M. M.* the aforesaid Codicil was added
 to the said Will, and the Will of the said
M. M. hath been altered, obliterated and
 defaced by some Persons, and by some ways
 and means unknown to your Orator, the
 names of which Persons that made the said
 Codicil with the places of their Habitation,
 and how the said Will was altered, your
 Orator prays the said *J. M.* may set forth,
 and the Bequests by the said Will given to
 your said Orator of the Premises, given in
 the County of *Devon* in the County of *So-*
merfet, and in the County of *Middlesex*, are
 razed, blotted and struck out, but yet so,
 that the same with great difficulty may be

read. As in and by the said Will, if the same were produced to this Honourable Court, would more fully appear. And your Orator further sheweth, That soon after the death of the said *M. M.* the said *J. M.* the Son possessed himself of all the Real and Personal Estate of the said *M. M.* and although your said Orator hath several times applied himself in a friendly manner to the said *J. M.* to satisfy and pay your said Orator the aforementioned sum and damages for the same that were owing to him your said Orator by the said *M. M.* and to put your said Orator into possession of the Premises, and to give him an account as much as lay in him the said *J. M.* so to do, which were devised to your Orator as aforesaid; he the said *J. M.* at first seemed to comply therewith, yet the said *J. M.* hath not performed his word in any of the matters aforesaid. And your Orator further sheweth, That he the said *J. M.* your Orator being one day with him at his House soon after the death of *M. M.* his Father, did desire of your said Orator (your Orator having made mention of the aforesaid Obligation of ninety Pounds, and that it was in his Pocket) that your said Orator would shew him the said Obligation, and your Orator putting the said Obligation into the hands of him the said *J. M.* he tore off the Seal of the said Obligation, and bid your said Orator take his course in Law or Equity as he should be advised; and when the said Obligation was thus torn by him the said *J. M.* there was

was not one Farthing satisfied of it then, and the Mony due therein is all still behind and unpaid. And he the said J. M. from time to time hath put several delaies upon your said Orator in the several matters aforesaid, by proposing to your said Orator, that all differences, and the matters in dispute between your said Orator and the said J. M. might be put to a Reference and left to two indifferent Persons, to end and determine the same. And thereupon a great many Arbitration Bonds were sealed and entred into by the said J. M. and your Orator each to the other, (your Orator having since lost all the said Bonds excepting two, one of which bears date the twenty sixth day of *June*, in the year of our Lord one thousand six hundred eighty nine, and the other bears date the twenty ninth day of *June*, one thousand six hundred and ninety) to stand to the Arbitrament of the Persons named in the said Obligations indifferently chosen betwixt your Orator and the said J. M. in order to end and compose all the matters aforesaid, as in and by the said Bonds, relation being thereunto had and ready to be produced to this Honourable Court, do more fully appear. And your Orator further sheweth, That pursuant to those Bonds, and divers other Bonds sealed as aforesaid betwixt your said Orator and him the said J. M. to the same purpose, which your said Orator hath lost, touching the matters aforesaid, and made before and after the abovementioned Obligations or Bonds

Bonds of Award betwixt your said Orator and him the said J. M. for the composing the matters aforesaid; your said Orator did several times apply himself to the said Arbitrators, desiring them that they would appoint some time for the ending and determining the matters aforesaid, which they accordingly did, and gave notice thereof to the said J. M. but he so prevailed with the said Arbitrators on his side before the set time, that they never would do any thing by virtue of their Power, so that your Orator was wholly deluded therein. All which Proceedings of the said J. M. are contrary to Equity and Good Conscience, and tend to the apparent loss and damage of your said Orator. And your said Orator being remediless for the matters aforesaid save in this Honourable Court before your Lordship, your Orators Witnesses who could prove the truth of all the Premises, being since dead or in parts unknown to your Orator. To the end therefore that the said J. M. upon his Corporal Oath may true Answer make to all and singular the Premises as if particularly interrogated and repeated; and more especially whether the said M. M. at the time of his death was not indebted to your said Orator in the several sums aforesaid; and whether before his death he made his last Will and Testament in Writing, and who is made Executor thereof, and whether the said Will since the same was made and published by the said M. M. is not altered, blotted, obliterated,

rated, razed or defaced in any, and in what part thereof; and if so, wherein, by whom, when and for what reasons was the same done: And whether the said M. M. by the said Will did not give such or such Legacies, and make such or such Bequests to your said Orator as is before alledged; and may also set forth and discover where the said Will now is, and may produce the same; and that your Orator may be permitted to examine his Witnesses and prove the same in this Honourable Court; and that the said J. M. may also set forth whether he the said J. M. did not tear and destroy the said Bond as aforesaid: And may also set forth whether the said J. M. the Brother of your said Orator did not make a nuncupative Will and nominate your Orator the Executor thereof. And that the said J. M. may set forth and discover what Estate the said M. M. died possessed of, interested in or intituled unto, and in what particulars the same consisted, and how the same hath been applied, and where the remainder now is, whether any of the Securities have been altered of the said M. M. or whether else they remain as they did at the said M. M's death, and that your said Orator may have a full and perfect discovery and account of the said M. M's Real and Personal Estate, and that your Orator may be paid thereout what is justly owing to him from the said M. M. and that your said Orator may be relieved in all and singular the Premises according to Equity and

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and Good Conscience. May it please your Lordships to grant to your said Orator their Majesties most Gracious Writ of Subpena to be directed to him the said J. M. thereby commanding him at a certain day, and under a certain pain therein to be limited, personally to be and appear before, &c.

Company

Company of Stationers having Letters Patents from several Kings and Queens for Printing and Vending of Primers, Primers, Almanacks, &c. and by Letters Patents from King James the First, confirming the said Letters Patents from other his Predecessors, giving the Corporation also Power to make By-Laws, and who by virtue thereof by a By-Law settled and limited 200 l. per Annum out of the Profits of Primers, Almanacks, &c. for relief of poor Widows and Orphans of their Corporation. And Defendant being an Haberdasher and no Member of the Corporation, and Printing, importing and Selling great numbers of Primers, Almanacks, &c. Plaintiffs exhibit their Bill for discovery.

To the Right Honourable Heneage Earl of Nottingham, Lord High Chancellor of England.

HUmblly complaining, sheweth unto your good Lordship, your Orators the Masters and Keepers or Wardens and Commonalty of the Mystery or Art of Stationers of the City of London, That King Philip and Queen Mary for the avoiding of divers great abuses and disorders in and about the Printing of Books, did by their Letters Patents dated the fourth day of May, in the third and fourth Year of their Reign Incorporate

porate your Orators Predecessors by the name aforesaid, thereby granting to them and their Successors divers great Priviledges, Powers and Advantages, as by the said Letters Patents may appear. And your Orators further humbly shew, That Queen *Elizabeth* having by her Letters Patents dated the six and twentieth day of *February*, in the three and thirtieth year of her Reign, granted to *Verney Alley*, Gentleman, the Reversion for the term of thirty years, to begin from the death of *John Day* and *William Day* his Son, by himself or his Assigns, to Imprint or cause to be Imprinted the Psalms of *David* in English Meeter and Notes to say them, the *A, B, C*, with the little Catechism in English and Latin, compiled by *Alexander Nowell*, with all other Books in English and Latin which the said *Alexander Nowell* before that or thereafter should Make, Write or Translate, and had or should appoint to be Printed by the said *Verney Alley* and his Assigns: And also all other Books whatsoever that the said *Verney Alley* should Imprint, being Compiled, Translated and Set forth by any Learned Man, at the Procurement, Costs and Charges of the said *Verney Alley*; the same Letters Patents, with the Benefit and Advantage thereof was by the Administrators or Assigns of the said *Verney Alley* Assigned and Set over to certain Persons in trust for the Masters and Keepers or Wardens and Commonalty of the Mystery of Stationers, *London*. And your Orators further shew, That his Late Majesty King *James* by his Letters Patents,

tents, dated the nine and twentieth day of *October*, in the first year of his Reign, did grant unto the said Corporation of Stationers, the sole Printing and vending of Primers, Psalters and Psalms in Meeter and Prose with or without Musical Notes in the English Tongue, except as in the said Letters Patents, and herein after is excepted, and all manner of Almanacks and Prognostications, which then were or should be set forth or used in *England*, thereby prohibiting all other Persons from Printing or Vending the same; which last mentioned Letters Patents were by the said Corporation of Stationers afterwards and before the eighth day of *March*, in the thirteenth year of his said Majesty's Reign, surrendered to his said Majesty in his said Majesty's High Court of *Chancery*. And your Orators further humbly shew, That his said late Majesty King *James* afterwards in consideration thereof, and for relief of the said Corporation, out of his abundant Grace, and his certain Knowledge by his other Letters Patents, made and dated upon the said eighth day of *March*, in the same thirteenth year of his Reign, therein reciting the said several Letters Patent to the said *Verney Alley*, and that the same and the Interest thereof was assigned in Trust for the said Corporation as aforesaid; and also reciting the said Letters Patents of the nine and twentieth day of *October*, in the first year of his Reign and the surrender thereof, did Give and Grant unto the said Masters and Keepers

ers or Wardens and Comonalty and their Successors for ever, full Power, Authority and Priviledge to Imprint or cause to be Imprinted all manner of Book and Books of Primers, Psalters and Psalms in Meeter or Prose with Muscal Notes and without Muscal Notes, both in great and small Volumes in the English Tongue, which then were or thereafter should be set forth or permitted by him his Heirs or Successors, or by any other Person or Persons thereto by him his Heirs or Successors authorized or to be authorized, to be had, used, read or taught of by or unto his loving Subjects within his Re !m of *England*, by whatsoever name or names, the same Book or Books or any of them then were or should be called (The Books of Common Prayer then usually read or to be read in the Churches of *England*, together with all Books contained in the Letters Patents of the Office of his said Majesty's Printer Granted to *Robert Barker* and *Christopher Barker* his Son, other than the said Book and Books of Primers, Psalters, Psalms in Meeter or Prose, Almanacks, Prognostications and Bocks and Pamphlets tending to the same purpose, which are not to be taken or construed otherwise than as Almanacks and Prognostications always excepted and foreprized) strictly prohibiting by the said Letters Patents all other Person or Persons whatsoever to Print, Utter or Sell, or cause to be Printed, Uttered or Sold, or to be brought into the Realm from any part or parts beyond

yond the Seas any other Book or Books of Primers, Pfalters and Psalms in the English Tongue (except before excepted) than such as should be by the said Masters and Keepers or Wardens and Commonalty or their Successors, Printed or caused to be Printed according to the meaning of the said last mentioned Letters Patents. And for the further relief of the said Corporation, did Give and Grant to the said Master and Keepers or Wardens and Commonalty and their Successors for ever, full Power, Priviledge and Authority to Print and cause to be Printed all manner of Almanacks and Prognostications whatsoever in the English Tongue, and all manner of Books and Pamphlets tending to the same purpose, and which are not to be taken and construed other than Almanacks and Prognostications, being allowed by the Archbishop of *Canterbury* and Bishop of *London* or either of them for the time being, or by such other Person or Persons as they or either of them for the time being should in that behalf Assign or Appoint, by what Name or Title soever the same should be intituled, named or called, that should be Printed within the Realm of *England*; and therefore by the same Letters Patents for himself his Heirs and Successors did straitly charge, prohibit and command all and singular other Printers and Booksellers, and all other the Officers, Ministers and Subjects whatsoever of his said Majesty his Heirs and Successors, that they or any of them at any time or

K times

times hereafter should not Print or cause to be Printed, or brought from parts beyond the Seas any of the said Almanacks, Prognostications, or any other Almanacks, or Prognostications, Books or Pamphlets in the English Tongue tending to the same or like purpose, or that may be in any wise construed or taken as Almanacks or Prognostications, by what Titles or Additions soever the same be, or shall be Intituled or Named; Nor Buy, Utter or Sell, or cause to be Bought, Uttered or sold any other Almanacks, Prognostications or other Books in the English Tongue tending to the same or the like purpose, other than such only as should be Printed by the said Masters and Keepers or Wardens and Commonalty of the Mystery or Art of Stationers of the City of *London* or their Successors, thereby for himself his Heirs and Successors, strictly commanding all Officers, Ministers and Subjects whatsoever to aid and assist the said Masters and Keepers and Wardens or Commonalty and their Successors in the exercise of the said Privilege with effect, in all matters incident to the same, according to the true meaning of the said Letters Patents. And by the said Letters Patents did give Power to the Masters, Wardens and Assistants of the said Corporation to make By-Laws for the management and disposition of the Premises, besides other Privileges and Powers, as by the said last mentioned Letters Patents, amongst other things may also appear. By virtue whereof, and of his

his said Majesty's undoubted Prerogative Royal, in and touching Printing and Publishing of Books, and more particularly of the Books in the same Letters Patents mentioned, the said Masters, Keepers or Wardens and Commonalty became interested therein, and all other Persons were and ought to be precluded from the Printing, or causing to be Printed Importing, or causing to be Imported from beyond the Seas, any of the said Books or Copies, and also from the Vending or causing to be Vended any of the said Book or Books, which should not be Imprinted according to the direction of the said Letters Patents. And accordingly the said Corporation and their Successors have from time to time in exclusion of all other Persons, enjoyed the same; and whensoever any other Person or Persons have or hath openly attempted to infringe the said Priviledge by Printing or Vending any such Book or Books, your Orators and their Predecessors upon bringing Actions on the Case or some other Actions, declaring upon the aforesaid Special Matter, upon full debate and consideration thereof, have had and recovered divers Judgments at Law in the great Courts at *Westminster*, as by the Records thereof ready to be produced may appear. And your Orators further humbly shew, That the said Corporation being thus duly interested in the said Books as aforesaid, did in pursuance of the Gracious Intention of the said Letters Patents, by certain By-Laws duly made and constituted, limit and settle above two hun-

dred Pounds *per Annum*, or some other considerable part of the Profit arising thereby, for the relief and maintenance of poor Widows and Orphans of the Members of the said Corporation, and other Poor of the said Corporation, who being very numerous, must starve should they be deprived thereof. Nevertheless so it is, may it please your Lordship, That one *S. L. of London*, Haberdasher, although he be no Member of the said Corporation of Stationers, and for many years hath known or hath been informed of the purport and effect of the said Letters Patents, or that your Orators ought to have and enjoy the said Priviledges and Interest; and that several such Actions at the Common Law have been brought, and recoveries thereupon had as aforesaid: Yet confederating with divers Persons unknown to your Orators, who when discovered, your Orators pray may be made Parties to this your Orators Bill and Suit, with apt words to charge them; and craftily designing to defraud your Orators of the benefit of the last mentioned Letters Patents, and by fraudulent and indirect practises to pervert the Gracious and just intention and operation thereof, hath at several times within the space of six years last past, Printed or caused to be Printed within the Realm of *England*, or in parts beyond the Seas, upon his own account, and not upon the account, or by or with any the Order, Consent or Allowance of the said Masters or Keepers and Wardens or Assistants and Commonalty, many

many thousands, hundreds or other great numbers and quantities of Primers, and Psalms in Meeter or Prose, with or without Musical Notes, in great or small Volumes in the English Tongue, other than such as were in the said Letters Patents excepted, and which are such as by the said Letters Patents were granted to the said Company; and as many or more Books of Almanacks or Prognostications, the Printing or Vending whereof were by the said Letters Patents Granted, Meant, Mentioned or Intended to be granted to the said Master and Keepers or Wardens and Commonalty of Stationers, and hath Imported or caused to be Imported from some part or parts beyond the Seas, divers great numbers or quantities thereof; and he or some by his Order or Privity, did take or receive, and had the said Books so by him Printed or caused to be Printed or Imported, or some of them in Sheets, Sticht or Bound in his, their, or some of their Custody or Power, and hath Sold, Contracted or offered to Sell or cause to be Sold all, or the greatest or some part or parts of the said Book or Books, the Printing whereof were so as aforesaid granted to the said Corporation, the said S. L. well knowing, as the truth is, that the same or some of them were not Printed or caused to be Printed by, or by the Order or Allowance of the said Masters and Wardens, Assistants and Commonalty, or by any other Person or Persons whatsoever, lawfully or sufficiently authorized by them, and for the pur-

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poses aforesaid ; the said *S. L.* by the Confederation aforesaid , hath by himself or others to your Orators unknown, imployed and ordered divers Persons to your Orators unknown, to procure the said Books or some of them to be Imprinted, Imported and Vended, which hath been sometimes done in the Names of the said other Persons, and sometimes of the said *S. L.* and at other times in some false or fictitious Name or Names, but always to and for the use and account of the said *S. L.* or of him and other his said Confederates, who privily agreed to share the Profits thereof; and are, or were, or did contract to be Copartners therein, and have, or hath unjustly gotten great sums of Mony thereby; and having now great quantities of the said Books in Sheets or otherwise unfold, in their or some of their Custody or Power, do or doth intend and offer to Sell and Dispose the same to his Majesty's Subjects; the said *S. L.* sometimes pretending that he hath Imprinted or Vended the said Books by license from, or for the Use and Benefit of the said Corporation, or of some Members thereof, whose Names he refuseth to discover, or that he bought the same of some Merchant or other Importer thereof. Whenas the said Master, Wardens and Assistants or other the Commonalty, or all or any of them never did, nor are by the said Letters Patents impowred to give or impart any such License, and are further restrained by certain By-Laws of the said Masters,

Masters, Wardens and Assistants, made in pursuance of the said Power about six years since, or before or after, and duly confirmed by the Lord High Chancellor or Lord Keeper of the Great Seal of *England* and the two Chief Justices, by which, or some other such By-Laws then duly made, and so confirmed, It was for the avoiding of Confusion and Errors therein, and for the better support of the said Corporation, also Ordained that the Imprinting thereof should not be promiscuous, by all the Members of the said Corporation, but should be carried and managed by a Common Stock, deposited by the said Members, who were to have answerable proportions of Advantage over and besides what was so as aforesaid limited for the Poor; and for that purpose, that the said Books should only be Imprinted by Printers, especially appointed or approved by the said Masters, Wardens and Assistants of the said Corporation, and not by any other Person or Persons whatsoever, and that certain Stock-Keepers should be annually chosen to superintend the same, or to that or the like effect, as by the said By-Laws may appear. In which method the Imprinting of the said Books for many years hath been, and by reason of the said By-Laws, or such other By-Laws made in pursuance of the said Letters Patents, ought to be so managed for the future; and the said *S. L.* ought not therefore to have vended any Books so Imprinted, though bought of a Merchant;

chant; nor did he really so buy the said Books: But some Bill of Sale was by the Confederacy aforesaid, colourably made, when in truth the said S. L. was before Owner of the said Books, or had before in Person, or by his Correspondents or Agent in *Holland* or elsewhere, bespoke and provided the said Books, and some of them which were there Imprinted; and upon this account, or upon the account of such his Copartners or Confederates as aforesaid, Imported accordingly. But the said S. L. at other times pretends, that the Books by him, or by his Order, or to or for his Use or Account, so as aforesaid, Imprinted Imported or Sold, were other Books than what were by the said Letters Patents mentioned to be granted to the said Corporation, when as in truth they were and are the same in substance; and if they differ at all, it was and is only in the Title Page, or in some other minute and inconsiderable Particles or Circumstances, which was and is only by contrivance to elude the virtue of the said Letters Patents, or else by negligent mistakes and errors in the careless and false Printing thereof, to the great injury of his Majesty's Subjects. And particularly your Orators do aver, That all the Almanacks so Printed, Bought, Imported or Vended by, or upon the account of the said S. L. are such as have been allowed by the Archbishop of *Canterbury*, or Bishop of *London* for the time being, or by such other Person or Persons, as they or one of them

for

for the time being have or hath authorized for that purpose, or such as by the said last mentioned Letters Patents, or otherwise granted to the said Corporation; and in pursuance thereof, have been and ought to be Printed by your Orators Predecessors and your Orators, as might appear upon view of the said Almanacks and other Books. But the said S. L. being conscious that he is liable to make your Orators satisfaction for the same, and other the said Transactions; for the Prevention thereof hath transacted and managed the matters aforesaid in so secret, clandestine and fraudulent a manner, that your Orators are not capable to make precise proof thereof, the said S. L. refusing to discover the same or any part thereof, so that your Orators are remediless by any Action at Law, unless aided and assisted by this Honourable Court. And forasmuch as the said Priviledge and Interest so as aforesaid granted by his said Majesty King *James* to your Orators, must otherwise be defeated, and not only the said poor Widows and Orphans must perish, but others of the Members of the said Corporation by the said sinister and undue Practices be greatly prejudiced, and his Majesty's liege Subjects by imperfect and undue Impressions must be abused. To the end therefore that the said S. L. may set forth what Book or Books of Primers, Psalters or Psalms in Meeter or Prose, with or without Musical Notes in great or small Volumes, permitted by his Majesty King *James* or his Successors,

Successors, used, read or taught of, by or unto the English Subjects, and what Books of Almanacks and Prognostications in the English Tongue, or Books or Pamphlets tending to the same purpose, which are not to be taken or construed otherwise than as Almanacks and Prognostications by whatsoever Title the same are or have been named, and by what Name or Names, and under what Title or Title Pages, in particular he the said *S. L.* or any such other Person or Persons as aforesaid, by or with his Order, or upon his Account, or upon the Account of any such Copartnership or Agreement as aforesaid, or otherwise have or hath Printed or caused to be Printed as aforesaid, Imported or caused to be Imported from any, and what parts and places beyond the Seas as aforesaid, or bought of and from any Person or Persons who Imported or pretended to Import the same, and from whom, and what, and how many of the same Books, or any other such or the like Books, being not Imported or caused to be Imported by, or for the said Corporation as aforesaid, he or any such other Person or Persons as aforesaid, for him or his use, or by his Order or Privity, or upon the account of any such Copartnership or Agreement as aforesaid, or otherwise, ever Vended, Sold or Bartered away, and to whom, and who have been Sharers, Copartners, Agents or Confederates in or about the same, and may discover the times when, and the Names and Places of Habitation of all and every such other Person or Persons,

Persons, and whether he did not then know or believe, or was informed that the said Book or Books so by him or his Order, or otherwise as aforesaid, Imported, Bought or Sold were Printed without the Order or Allowance of the said Corporation, or contrary to the said Letters Patents, or By-Laws, or the effect, intention, words or true meaning thereof; and may set forth the full numbers and quantities of all and singular the said Books so had, procured or disposed, and whether in Sheets, Bound or Sticht, or how otherwise gotten or disposed, and by and under what Title, Title Pages or other denominations, and what quantities or numbers, or any or either of the same Books, he or any in trust for him, or such other the said Confederates or Persons as aforesaid, and who by Name now have or lately, and when had in his, their, or any, and which of their Custody or Power, and how and from whom, and for what Considerations, he, they or any of them had and obtained the same; and that your Orators may be relieved in and by a full discovery of the said Premisses, and otherwise as to Justice and Equity appertains; and that the said S. L. may be enjoined from Vending, Printing or Selling any such Books. May it please your Lordship, the Premisses considered, to grant, &c.

*Anthony Keck.
Henry Trinder.*

Plaintiff

Plaintiff being by Articles of Agreement to pay 800 l. as a marriage Portion with his Daughter to the Husbands Father, and the Father to charge Lands of the value of 300 l. with an Annuity of 150 l. per Annum during the Lives of the Husband and Wife, and 100 l. per Annum for the Wives Jointure in case she survives her Husband; and the Defendant leaving part of the Lands out in the settlement to the value of 200 l. per Annum, and refusing to convey the Lands unsettled according to Articles of Agreement, Plaintiff exhibits this Bill to compel Defendants to settle the same.

To the Right Honourable George Lord Jeffreys, Baron of Wem, Lord High Chancellor of England.

HUmbly complaining, sheweth unto your Lordship, your Orator *E. W.* of the Parish of *St. Margarets Westminster* in the County of *Middlesex*, Esquire, That *William H junior*, Son and Heir Apparent of *W. H.* of *B.* in the County of *Derby*, Gentleman; did in or about the Month of *March*, in the year of our Lord God one thousand six hundred eighty six, intermarry with *B.* one of your Orator's Daughters without your Orator's knowledge. And your Orator further sheweth, That soon after the said Marriage was made known to your

your Orator, a meeting was desired by your Orator with the said *W. H. senior*, in order to make some Provision for the maintenance of the said *W. H. junior* and your Orator's said Daughter *B.* and accordingly at, &c. your Orator and the said *William H. senior* and *W. H. junior* did meet. And your Orator then discoursing to the said *W. H. senior*, about making a Provision for the maintenance of the said *W. H. junior* and the said *B.* his Wife, and enquiring of him what Estate he had in Land, he the said *W. H. senior* did then affirm to your Orator, that he and his said Son *W. H.* were then jointly seized in an Estate in *Derbyshire* called *B.* and that the same was of the clear yearly value of three hundred Pounds, whereupon your Orator and the said *W. H. senior* came to this agreement, viz. That your Orator should pay 800 *l.* to the said *W. H. senior* as the Marriage Portion of the said *B.* and that the said *W. H. senior* should settle Lands, Tenements or Hereditaments of the clear yearly value of three hundred pounds to the use of him the said *W. H. senior* for his Life, to be charged and chargeable with one hundred and fifty Pounds *per Annum* during the Joint-lives of the said *W. H. junior* and the said *B.* for their present maintenance, payable quarterly, and charged and chargeable with 100 *l. per Annum* for the Jointure of *B.* in case she should survive the said *W. H. junior*, payable likewise quarterly with the remainder to the Heirs Males of the said *W. H. junior* and the said *B.* and for failure of
such

such Issue Male, the whole Estate was to be charged with the sum of 1200 *l.* for Daughter or Daughters Portions. And then by the said Agreement it was to be limited to the second Son of the said *W. H. senior* and his Heirs. And your Orator further sheweth unto your Lordship, That soon after your said Orator the said *W. H. senior*, and *W. H. junior* were come to the said Agreement, Articles of Agreement were drawn up and executed by the said *W. H. senior*, *W. H. junior* and your Orator, bearing date the second day of *October*, in the year of our Lord one thousand six hundred eighty six, and therein then reciting the Marriage then had. In consideration thereof your Orator did covenant to pay to the said *W. H.* the elder, the sum of eight hundred Pounds as the Marriage Portion of the said *B.* in manner following, *viz.* four hundred Pounds at or before the Feast of the Nativity of our Lord Christ then next, one hundred Pounds more with Interest at the Feast of the Nativity of *St. John Baptist* then next, and should give Bond of the penalty of six hundred Pounds, conditioned for the payment of 300 *l.* at the Day of Marriage, or Death of *H. W.* Son and Heir Apparent of your Orator, with Interest for the same at the rate of 6 *l. per Cent. per Annum*, to be paid every six Months until the said 300 *l.* be fully paid; and thereby the said *W. H. senior* and *W. H. junior* did Covenant, Grant and Agree to and with your Orator, that the said *W. H. senior* in *Michaelmas* Term then next, should

Should Settle, Convey and Assure all his Estate, Right, Title and Interest in *B.* in *Derbyshire*, and the Messuages, Lands, Tenements, Mines and Premisses thereunto belonging, being of the value of three hundred Pounds *per Annum* or thereabouts, upon himself for life, and afterwards for the life of the said *W. H.* the younger, and afterwards to the Heirs Males of the Body of the said *W. H.* the younger on the Body of the said *B.* to be begotten, and chargeable with the payment of one hundred and fifty Pounds *per Annum* of lawful Mony of *England*, unto the said *W. H.* the younger during the Joint-lives of the said *W. H.* the younger and the said *B.* for their present maintenance at the four most usual Feasts in the year, the first payment to begin at the Feast of the Birth of our Lord Christ then next, and also chargeable with the sum of one hundred Pounds *per Annum* of lawful Mony of *England*, payable unto the said *B.* during her Life for her Jointure in lieu of her thirds, in case she shall survive the said *W. H.* her Husband, to be paid her at the like usual quarterly Feasts or days of payment in the year, by even and equal portions; the first payment thereof to be made upon the first Feast day that shall happen after the death of the said *W. H.* the Husband, as in and by the said Articles, under the Hands and Seals of the said *W. H. senior* and *W. H. junior*, ready to be produced to this Honourable Court, may more fully and at large appear. And your Orator further sheweth
unto

unto your Lordship, That your Orator pursuant to the said Agreement, did pay unto the said *W. H. senior* the sum of four hundred Pounds of lawful Mony of *England*, at the times of the said Agreement appointed for the payment of the same; and hath over and above paid 100 *l.* more than he was by the said Agreement to have done, and always was and is ready to pay the Interest of the other three hundred Pounds until the Principal shall become due, and then is willing to pay the Principal, and in all things to perform the said Agreement on his part to be performed, so as the said *W. H. senior* and *W. H. junior* would perform their parts. And your Orator further sheweth unto your Lordship, That in and by Indentures of Lease and Release, the Lease bearing date twenty fourth of *November*, and the Release the twenty fifth of *November*, in the year of our Lord one thousand six hundred eighty six, made between the said *W. H. the elder* and *W. H. the younger* of the one part, your Orator *H. W. Esquire*, your Orators Son and Heir Apparent, *J. L. of D. in the County of Derbyshire, Esq;* and *M. S. of the same, Esq;* of the other part; the said *W. H. the elder*, and *W. H. the younger*, in consideration of the said Marriage and Marriage Portion of the said *B.* and for providing a competent Jointure for the said *B.* did convey unto your Orator, the said *H. W. J. L. and M. S.* all that Mansion House situate, lying and being in the Parish of *P.* called or known by the Name of *B.* now in the occupation of

of the said *W. H.* the elder, his Assignee or Assignees, and also all that Messuage or Tenement, scituate and being in *B.* aforesaid, now or late in the occupation of *N. W.* his Assignee or Assignees, and also all those several Closes, pieces and parcels of Ground, lying and being in *B.* aforesaid, now or late in the several tenures and occupations of the said *W. H.* the elder, *J. M.* *R. W.* and *N. W.* or any of them, their or any of their Assignee or Assignees; and all Houses, Edifices, Buildings, Barns, Stables, Beast-houses, Backsides, Fold-yards, Gardens, Orchards, Mines of Coles Iron, and Stone, Woods, Underwoods, Ways, Waterings, Easements, Profits, Commodities, Hereditaments and Appurtenances whatsoever to the said Mansion House, Messuages, Cottages, Lands, Closes, pieces and parcels of Ground and Premises, or any of them belonging or in any wise appertaining, lately purchased by the said *W. H.* the elder and *W. H.* the younger, of *J. S.* the elder, of *R. N.* in the said County of *Derby*, Esquire. And the Reversion and Reversions, Remainder and Remainders, yearly and other Rents and Profits reserved, due or payable upon any Demise or Demises, Lease or Leases of the Premises, or any part or parcel thereof, and all the Estate, Right, Title, Interest, Use, Possession, Proportion, Property, Trust, Claim and Demand whatsoever of the said *W. H.* the elder, and *W. H.* the younger, and either of them, of, into and out of the same Premises, and every or any part or

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parcel thereof, to the Use and Behoof of the said *W. H.* the elder, for and during his natural Life, without impeachment of, or for any manner of waste. Nevertheless upon this Condition, That the said *W. H.* the Elder shall well and truly pay or cause to be paid during his Life, the sum of one hundred and fifty Pounds *per Annum* at the four most usual Feasts or days of payment in the year, that is to say, at the Feast of the Nativity of our Lord, the Annunciation of the blessed Virgin *Mary*, the Nativity of St. *John* the Baptist and the Feast of St. *Michael* the Archangel, by even and equal portions (the first payment thereof to be made at or upon the Feast of the Nativity of our Lord then next ensuing) unto the said *W. H.* the younger during the Joint-lives of the said *W. H.* the younger, and the said *B.* his Wife; and the sum of one hundred Pounds *per Annum* after the death of the said *W. H.* the younger by the like quarterly payments, unto the said *B. H.* for her Life if she shall survive the said *W. H.* the younger, and from and after the death of the said *W. H.* the elder, then to the use of the said *W. H.* the younger, for and during the term of fourscore and nineteen years, if the said *W. H.* shall so long live, without impeachment of, or for any manner of waste, and from and after the end, expiration or other sooner determination of the said term of fourscore and nineteen years; then to the use of your Orator the said *H. W. J. L.* and *M. S.* and their Heirs, during the Life of the said

said *W. H.* the younger upon trust, to support and preserve the Contingent Uses and Estates therein, and herein after mentioned, from being defeated and destroyed, and for that purpose to make Entries, and bring Actions as the case shall require. Nevertheless to permit and suffer the said *W. H.* the younger and his Assigns, to receive and take the Rents, Issues and Profits thereof during his natural Life, and from and after his decease to the Use and Behoof of the first Son of the Body of the said *W. H.* the younger, on the Body of the said *B.* his Wife, lawfully to be begotten; and of the Heirs Males of the Body of such first-born Son issuing, and for default of such Issue, then to the Use and Behoof of the second, and all other the Sons of the said *W. H.* junior on the Body of the said *B.* in tail Male; and for default of such Issue, then to the Use and Behoof of *J. H.* the second Son of the said *W. H.* the elder for the term of his natural Life; and from and after his decease to the Use and Behoof of the Heirs Males of his Body, lawfully to be begotten; and for default of such Issue, then to the Use and Behoof of *P. H.* the third Son of the said *W. H.* the elder, for the term of his natural Life; and from and after his decease, to the Use and Behoof of the Heirs Males of his Body lawfully to be begotten; and for default of such Issue, then to the Use and Behoof of your Orator the said *H. W. J. L.* and *M. S.* their Executors, Administrators and Assigns, for and during the

term of two hundred years to come, from and after the death of the said *W. H.* the younger, fully to be compleat and ended, without impeachment of or for any manner of waste; and from and after the determination of that Estate then to use and behoof of the said *W. H.* the elder, his Heirs and Assigns for ever. And it is therein declared, That your Orators the said *H. W. J. L.* and *M. S.* their Heirs and Assigns, and such Heirs Male, or Heirs for the time being, on whom the Premises shall descend as aforesaid, shall stand and be seized of the Premises aforesaid, upon this Condition, That they or one of them shall, during the life of the said *B.* if the said *B.* shall survive the said *W. H.* the elder and *W. H.* the younger, well and truly pay or cause to be paid unto the said *B. H.* or her Assigns out of the Rents, Issues or Profits of the Premises, the yearly Rent or sum of one hundred Pounds of lawful Mony of *England*, at the aforesaid Feasts or days of Payment in the year, by even and equal portions (the first payment to be made upon the first of the said usual Feast-days, which shall happen after the death of the said *W. H.* the younger) for her Jointure, and in lieu and bar of her Dower, and to no other use intent or purpose whatsoever. And it is thereby agreed, That the Term and Estate for two hundred years therein limited upon Trust and Confidence, that in case the said *W. H.* the younger should die having no Issue Male of his Body on the
Body

Body of the said *B.* begotten or born after his death ; or if the Issue Male begotten between the said *W. H.* the younger and *B.* shall all happen to die before his or their Age or Ages of one and twenty years, without Issue Male of his or their Body or Bodies lawfully to be begotten ; and that there be one or more Daughter or Daughters of the Body of the said *W. H.* the younger on the Body of the said *B.* begotten and born either before or after the decease of the said *W. H.* the younger, that your Orator the said *H. W. J. L.* and *M. S.* and the survivor of them, his Executors and Administrators, shall by and out of the Rents and Profits of the Premises limited as aforesaid, for the said term of two hundred years, by Leasing, Demising or Sale thereof, for all or any part of the said two hundred years, raise and pay to and for such Daughter and Daughters, the sum or sums of Money following, that is to say, if there shall be one such Daughter and no more, then the sum of twelve hundred Pounds, if two or more such Daughters, then the said twelve hundred Pounds to be equally divided between them, for the Portion or Portions of such Daughter or Daughters, to be paid to each of them respectively at her Age of eighteen years or day of Marriage, which shall first happen. And the said *W. H.* the elder and *W. H.* the younger, for themselves, their and either of their Heirs, Executors and Administrators, did Covenant, Promise and Grant to and with your Orator the said

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H. VV. J. L. and *M. S.* and either of them, their Heirs, Executors, Administrators and Assigns, That the said Mansion House, Cottages and Cloſes, Tenements and Hereditaments, and all and ſingular the Premiffes, then were and ſo ſhould from time to time, and at all times then after, remain, continue and be unto your Orator the ſaid *H. VV. J. L.* and *M. S.* their Heirs and Assigns to the uſes aforeſaid, free and clear, and freely and clearly acquitted, exonerated and diſcharged of and from all and all manner of former and other Gifts, Grants, Bargains, Sales, Jointures, Dowers, Wills, Intails, Fines, Amerciaments, Statutes, Recognizances, Executions, Extents, Seizures, Cauſe or Cauſes of Seizures, Forfeitures, Debts, Titles, Troubles, Charges and Incumbrances, Claims and Demands whatſoever, had, made, done, ſuffered, executed or committed, or to be had, made, done, ſuffered, executed or committed by the ſaid *VV. H.* the elder and *VV. H.* the younger, or either of them, or any other Perſon or Perſons whatſoever, lawfully claiming or to claim by, from or under him, them or either of them, as in and by the ſaid Indentures of Leaſe and Release, ready to be produced to this Honourable Court, may more fully and at large appear. And your Orator further ſheweth unto your Lordſhip, That at the time when the ſaid Indentures were Sealed and Delivered, the ſaid *W. H.* ſenior did affirm to your Orator, that the ſaid Land and Premiffes ſo conveyed as
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aforesaid, were of the clear yearly value of three hundred Pounds, and were free from all manner of Incumbrances; and did then promise that he would pay the said one hundred and fifty Pounds *per Annum* to the said *W. H. junior*, for the present maintenance of him the said *W. H. junior* and *B. his Wife*; and your Orator well hoped that the said Lands and Premises so conveyed as aforesaid, had been of the clear yearly value of three hundred Pounds *per Annum*, and free from all Incumbrances; and that the said *W. H. the elder* would have well and truly paid the said one hundred and fifty Pounds *per Annum*, for the present maintenance of the said *W. H. the younger* and the said *B. his Wife*. But so it is may it please your Lordship, That the said *W. H. the elder* by contrivance and combination with the said *W. H. the younger*, and with design to defraud your Orator of the Money so paid and agreed to be paid by your Orator as the Marriage Portion of the said *B.* and to defraud the said *B.* of her present maintenance and also of her Jointure in case she shall happen to survive the said *W. H. the younger*, hath caused divers Lands, Tenements and Hereditaments of the yearly value of two hundred Pounds and upwards to be left out of the said Indentures of Settlement, which were intended to be included, and now pretends that the same were no part of *B's* Lands, but purchased distinctly by themselves, and that therefore they ought not to be settled, for that he was

by the said Agreement to settle only the Lands belonging to *B.* and by that means hath not conveyed above one hundred Pounds *per Annum* of the said three hundred Pounds *per Annum*, which he agreed should be settled to the uses aforesaid, and which should be charged with one hundred and fifty Pounds *per Annum*, for the present maintenance of the said *W. H.* the younger and *B.* his Wife as aforesaid, although the said Lands which are left out of the said Indentures or Deeds of Settlement, adjoin up to the very Lands that the said *W. H.* owns to belong to *B.* and the said Lands so as aforesaid left out of the said Settlement, have been always since the same were purchased, reckoned as part of the Lands belonging to *B.* by all persons dwelling thereabouts; and he well knows that the true meaning of the said Agreement was, that three hundred Pounds *per Annum*, clear of all Incumbrances, should be settled to the uses aforesaid, which he the said *W. H.* the elder hath been so far from settling, that he hath made no other settlement than the Lands comprized in the said Indentures of Lease and Release; which said Lands fall short two hundred Pounds *per Annum* or more, and are also mortgaged as is pretended to one *J. B.* for four hundred Pounds, or some other great sum; and the other Lands not settled, are charged with Annuities or sums of Mony, to a very great value, as the said *W. H.* pretends, and therefore he pretends he can make no other provision than

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is already made. And the said *VV. H. junior* by the persuasions of the said *W. H. the elder*, doth from time to time, as the said one hundred and fifty Pounds *per Annum*, and which ought to be issuing out of three hundred Pounds *per Annum* becomes due, release the same to the said *VV. H. the elder*, so that the said *B.* hath not had six pence for her maintenance since the said Marriage, but must have starved unless your Orator had taken care of her; and yet he the said *W. H. the elder* threatens to sue your Orator upon the said Bond for three hundred Pounds entered into by your Orator as aforesaid, and refuseth to convey the said Lands left unsettled, upon pretence that the same are engaged for as much as they are worth, and yet refuseth to discover what Incumbrances are upon them, and also what Incumbrances are upon the Lands settled; and they the said *VV. H. the elder* and *VV. H. the younger*, do utterly refuse to perform the said Agreement; and the said *J. B.* threatens to enter upon the Lands so conveyed as aforesaid, the said Mortgage as is pretended being forfeited, so that your Orator's Daughter is in danger of being utterly ruined. In tender consideration whereof, and forasmuch as your Orator is utterly remediless in the Premises by the strict Rules of the Common Law, having no way or means to obtain discovery of what Incumbrances are upon the Lands settled and unsettled, but by the Oaths of the Confederates, nor to compel an execution of the said Agreement but in
a Court

a Court of Equity before your Lordship, and the rather for that your Orator's Witnesses are either dead, beyond the Seas, or in places remote, and to your Orator unknown. To the end therefore that the said *W. H.* the elder and *W. H.* the younger, may upon their severall and respective Corporal Oaths, true, full, distinct, direct and perfect answer make to all and every the matters and things herein and hereby charged, as if they and every of them were particularly interrogated to every particular matter and thing; and that the said *W. H.* the elder and *W. H.* the younger, may particularly set forth what Agreement was made between the said *W. H.* the elder and *W. H.* the younger and your Orator; whether your Orator was not to pay four hundred Pounds, and one hundred Pounds, and three hundred Pounds, as herein is before set forth; and whether the said *W. H.* the younger hath not received a hundred Pounds more; and whether the said *W. H.* the elder was not by Agreement to settle three hundred Pounds *per Annum* clear of Incumbrances to the uses aforesaid, chargeable with one hundred and fifty Pounds *per Annum*, during the Joint-lives of them the said *W. H.* the younger and *B.* his Wife, for the present maintenance of them the said *W. H.* the younger and *B.* his Wife, payable quarterly as aforesaid, and may set forth how much hath been paid thereof, and what Acquittances, Discharges or Releases have been given by the said *W. H.* the younger,

to

to the said *W. H.* the elder, and for what consideration, and may discover what Incumbrances there are upon the Lands settled and unsettled; and whether he hath not received all, or the greatest part of his Mony: And that the said *W. H.* the elder and *W. H.* the younger may be compelled by the Decree of this Honourable Court to settle three hundred Pounds *per Annum*, free from all Incumbrances to the uses aforesaid, and chargeable with one hundred and fifty Pounds *per Annum*, and an hundred Pounds *per Annum* as aforesaid, and to execute the said Agreement in every part thereof. And that your Orator may keep the said Interest of the said three hundred Pounds, and the Principal, when due, in his hands until the same be performed, and your Orator may have such further and other relief in all and singular the Premises as is usual in cases of this nature. May it please your Lordship, &c.

The

The Complainants Wives former Husband having received 60 l. of the Defendant S. J. her Mony (being her share of 300 l. given to her and five other Brothers and Sisters by King Charles the Second) who gave Bond to T. N. another Defendant, Trustee for S. J. to pay the same to her at twenty one years of Age or day of Marriage ; and Plaintiff's former Husband having laid out in Maintenance, Education and putting forth Apprentices the said S. above 60 l. when she attained the age of 20 years marries one T. J. and Complainant's Husband dies, and to whom she Administers, and finding his Estate insufficient to pay his Debts, gave up his Estate to his Creditors, who made not above nine shillings in the pound ; and the Defendant R. N. the Trustee prosecuting the Bond at Law against Complainant and her now Husband, whom she married with since her Administration, Complainants exhibit this Bill for relief, and to have the Bond delivered up.

To the Right Honourable George Lord Jeffereys, &c.

HUmblly complaining, sheweth unto your Lordship, your Orator and Oratrix VV. S. and S. his Wife, that his late Majesty King Charles the Second, did in or about the year of our Lord 1669. give the sum of 300 l. to one S. S. (who afterwards married

married one T. J.) one of the Daughters of H. S. late of P. in the County of S. Gardner, and her Brothers and Sisters being five in number, to be equally divided amongst them. And that the said S. S.'s share amounting to the sum of threescore Pounds, the same was paid into the hands of R. S. your Oratrix S. her former Husband. And your Orator and Oratrix further shew unto your Lordship, That one R. N. being Trustee for the said S. S. did soon after the payment of the said 60*l.* to the said R. S. apply himself to the said R. S. and did request him to enter into Bond for securing the repayment thereof to the said S. S. when she should attain her Age of one and twenty years or be Married, which should first happen. And your Orator and Oratrix further shew unto your Lordship, That the said R. S. did enter into one Bond or Obligation, bearing date on or about the last day of *February*, in the said year of our Lord one thousand six hundred sixty nine, unto the said R. N. of the penalty of one hundred and twenty Pounds, conditioned for the payment of sixty eight Pounds twelve shillings, unto the said S. S. at or upon such day or time as the said S. S. should come to and attain her Age of one and twenty years or be Married, which of the said days and times should first come and happen. And in case the said S. S. should happen to die or depart this Life before she should attain the Age of one and twenty years or be married. That then
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the said S. S. his Executors, Administrator or Assigns should pay the said sixty eight Pounds twelve Shillings to the said R. N. in trust for the Brothers and Sisters of the said S. S. or so many of them as should be then living, as in and by the said Bond or Obligation, and Condition thereof, had your Orator and Oratrix the same to produce, would more fully and at large appear. And your Orator and Oratrix further shew unto your Lordship, That the said S. S. when she was about three years of age was sent to the House of the said R. S. and dwelt at his House from her said age of three years, until she was eleven years of age or thereabouts, and was all that time maintained in Meat, Drink, Washing, Lodging and Cloaths by Monies laid out by the said R. S. for her and for her use, and had several fits of Sickness, and particularly the small Pox, the charges whereof were paid by the said R. S. And at her age of twelve years or thereabouts, the said R. S. provided a Mistress for her the said S. one Mistress M. M. who was a Sempstress, and the said S. S. was bound to her as her Apprentice. And he the said R. S. paid to the said M. M. for the said S. S. the sum of 32 l. and in the said eight or nine years, when she dwelt with him, the said R. S. expended and laid out for the said S. S. and for her use, much more than 60 l. And your Orator and Oratrix further shew unto your Lordship, that the said R. S. died about fourteen years ago, and soon after his decease your

Oratrix

Oratrix who was his Widow and Relict, took out Letters of Administration, but finding his Estate would not pay his Debts, gave up all his Estate whatever to his Creditors, who made not above nine Shillings in the Pound thereof, your Oratrix not knowing any thing at that time of the Bond aforesaid. And your Orator and Oratrix did after that Intermarry, and the said S. S. did live unmarried till after she did attain her age of one and twenty years; and when she was about the age of twenty four, she the said S. did Intermarry with one T. J. who is since dead; and both the said S. when she was sole, and the said T. J. and S. after their Intermarriage, being very sensible of what Monies the said R. S. had expended on the account of and for the use of the said S. often declared (after they knew there was such a Bond) that they would never desire a Penny of it, nor would ever consent the same should be put in suit, but did promise often to procure the same to be delivered up to your Orator and Oratrix to cancel the same. And your Orator and Oratrix well hoped that the said Bond would have been delivered up, and that your Orator and Oratrix should not have been put to any trouble or charge by reason of the same standing out against your Orator and Oratrix. But now so it is, may it please your Lordship, That the said R. N. in whose Name the said Bond was taken in trust for the said S. S. now
S. J.

S. J. Combining and Confederating himself with the said S. J. and one A. S. one of the Brothers of the said S. and designing unjust advantages to himself, hath caused the said Bond to be put in suit against your Orator and Oratrix, and threatens to recover the penalty of your Orator and Oratrix, and sometimes pretending that he had directions so to do from the said S. before her Intermarriage with the said T. J. and sometimes pretending he was ordered so to do by the said T. T. and the said S. after their Intermarriage; and at other times pretending that he cannot perform the trust in him reposed, for and on the behalf of the said S. now she is a Widow, unless he prosecutes your Orator and Oratrix upon the said Bond: And at other times he pretends that the said Bond was assigned to the said A. S. the Brother of S. by the said T. J. in his Life-time; and that the said A. S. did Order him to put the said Bond in suit against your Orator and Oratrix; whereas the truth is, as is herein before charged. And the said R. N. S. J. and A. S. do well know in their Conscience, that the said S. J. received of the said R. S. and he did lay out for her much more Mony than the said 68 l. 12 s. which ought to be allowed in discharge of the said Bond; neither did the said T. J. and S. during the time they were Married, or the said S. either before or after her Intermarriage ever give any order or directions for suing of the said Bond; nor did the said T. J. ever assign the said Bond

to the said *A. S.* or any other Person or Persons, but the said *S. J.* is willing the same should be delivered up and cancelled; and yet the said *R. N.* refuseth to deliver up the said Bond to be cancelled, and hath put the same in suit against your Orator and Oratrix. All which doings and pretences of the said *R. N.* and other the Confederates, are contrary to Equity and Good Conscience, and tend to the manifest wrong and injury of your Orator and Oratrix. In tender consideration whereof, and forasmuch as your Orator and Oratrix are remediless in the Premises by the strict Rules of the Common Law of the Land, the said Bond being made in the said *R. N.*'s Name: And your Orator and Oratrix having no way or means to obtain a discovery of what sum or sums of Money the said *S.* received of the said *R. S.* and were laid out by him for her use, nor to compel the Allowance of the same in discharge of the said Bond, but by the aid of this Honourable Court; and the rather for that the said *R. N.* sues the Bond without the direction of the said *S. J.* for whom he stands intrusted as aforesaid. And your Orator and Oratrixes Witnesses are either dead, beyond the Seas or in places remote, and to your Orator and Oratrix unknown. To the end therefore that the said *R. N.* *A. S.* and *S. J.* may upon their several and respective Corporal Oaths, true, full, distinct, direct and perfect answer make to all and every the matters and things herein and hereby charged, as if they were particularly inter-

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rogated to every particular matter and thing. And that the said R. N. may particularly upon his Oath set forth whether he had any Order or Directions from the said T. J. in his Life-time, or from the said S. either before or since his death, and when or from whom else, and when and whether he was not ordered the contrary by the said T. J. and S. or one of them, and that he be decreed to deliver up the said Bond to your Orator and Oratrix; and that your Orator and Oratrix may have such further and other relief in all and singular the Premises as is usual in Cases of this Nature. May it please your Lordship to grant unto your Orator and Oratrix, &c.

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Complainant having 70 l. due to him, part of 300 l. agreed to be paid him as his Wives Portion by her Father, and in Arrear at his death, and also share of an Estate in right of his Wife, left her by her Father's Will, who made his Wife Executrix thereof; and she neither paying the Arrears of his Portion, nor making a dividend of the Estate in her Life-time, and dying and making two Executors, and the Defendant being the surviving Executor, Plaintiff exhibits his Bill against him for the same.

To the Right Honourable Francis Lord Guilford, Lord Keeper of the Great Seal of England.

HUmblly complaining, sheweth unto your Lordship, your Orator *W.W.* of *Ipswich* in County of *S.* Bookseller, That about the Month of *September*, which was in the year of our Lord God one thousand six hundred fifty four, your Orator Intermarryed with one *M.T.* Daughter of *J.T.* late of *E.B.* in the said County of *S.* Clerk, deceased; and before the said Marriage was solemnized, the said *J.T.* did promise to pay unto your Orator the sum of three hundred Pounds as a Marriage Portion with the

said *Mary*, and in pursuance of the said promise, did in his Life-time pay unto your Orator at several payments the sum of two hundred and thirty Pounds; and on or about the Month of *March*, one thousand six hundred fifty six, he the said *J. T.* made his last Will and Testament in Writing, bearing date the one and thirtieth day of the said Month of *March*, and in and by the said Will, after several Legacies and Bequests therein mentioned, he did Will and Appoint that after his Wife shall be satisfied his In-gagements by Covenants upon Marriage, that the overplus of his Estate should be disposed as followeth, *viz.* That one Moiety be laid out for his Son *John* and his Children, as also his former Legacy of thirty Pounds, at the discretion of his Executrix, and that the other Moiety of the overplus of his Estate be equally divided between his Son *Andrew* and your Orator's Wife *Mary* aforesaid, after his Funeral Charges and other disbursements defaulted; and doth also order his Wife *E.* whom he makes Executrix of his said Will, that she should sell his House and Land, then in the possession of the Widow *B.* as in and by the said Will, relation being thereunto had, amongst divers other things it doth and may at large appear, and to which for more certainty your Orator doth refer himself. And your Orator further sheweth, that about the year of our Lord God, one thousand six hundred fifty eight, the said *J. T.* departed
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this Life, and the said E. his Widow and Relict proved the said Will, and took upon her the execution thereof, and sold the House and Lands aforesaid; and shortly after the death of the said J. T. the Testator, viz. about the year of our Lord God one thousand six hundred sixty one, and before any dividend made of the Estate according to the said Will, T. J. the Son departed this Life, his Wife and all his Children being dead before such his departure; whereby as your Orator is advised, one Moiety of the Legacy given to J. the Son and his Children by the Will aforesaid, belongeth to your Orator in right of his said Wife, and the other Moiety to A. T. Brother of the said J. who is yet living. And your Orator sheweth, That the said E. T. by virtue of the Executrixship aforesaid, did possess herself of a considerable Estate of the Testators, consisting in Ready Mony, Plate, Jewels, Householdstuff, Bonds, Bills, Mortgages and other things, to the value of two thousand Pounds and upwards; and also sold the said House and Land according to the direction of the Will aforesaid, sufficient to pay all the Testators Debts and Legacies with a great overplus to be distributed amongst the residuary Legatees, according to the intent and meaning of the Will aforesaid. And your Orator did divers times apply himself to the said E. and requested her that she would pay your Orator the se-

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venty Pounds, remainder of the three hundred Pounds, which your Orator was to have as a Marriage Portion as aforesaid; and also that she would proceed to make a dividend of the said *J. T.*'s Estate, according to the direction of the said Will, and account, and pay to your Orator what was due to him in right of his said Wife, which she the said *E.* divers times promised to do: And your Orator being unwilling to have any Controversie with one so nearly related to his said Wife; and being also unskilful in Matters belonging to the Law, did forbear to commence any Suit for recovering of his right during the Life of the said *E.* especially for that there is a Clause in the said Will, which doth provide, that if any of the said Testator's Children should molest the said *E.* in the execution of the said Will, that from thenceforth all such Legacies should be null and void; and for that reason your Orator was contented to wait patiently, verily believing that she the said *E.* would at last faithfully and justly perform the said Will, and discharge the Trust thereby in her reposed. And your Orator further sheweth, That about *Christmas* last, she the said *E. T.* departed this Life, but before her said Death she made her last Will and Testament in Writing, and appointed *J. F. of K.* in the County of *Cambridge*, Clerk, and one *A. M.* Executors thereof, since which

time

time the said *M.* is dead, and the said *F.* being the surviving Executor, hath proved or pretends to have proved the said Will, and by virtue thereof, or by some other way or means under some pretence hath possessed himself of the said Personal Estate of the said *E. T.* with all Bills, Bonds, Mortgages and other Securities; and also all the Plate, Jewels, Household-stuff and other Personal Estate belonging to the said *E.* and of which she was possessed at the time of her Death, amounting in the whole to sixteen hundred Pounds and upwards. And your Orator soon after the death of the said *E.* did apply himself to the said *J. F.* and did demand of him the said seventy Pounds due to your Orator for his Portion as aforesaid, and also your Orator's share of the Estate of the said *J. T.* due to him in right of his Wife as aforesaid, with Interest for the same from the time it ought to have been paid. But now so it is, may it please your Good Lordship, That the said *J. F.* intending to deal fraudulently with your Orator, and to deprive your Orator of what is his just due, doth pretend that by certain Articles of Agreement made before the said *J. T.* Intermarried with the said *E.* he the said *J. T.* was obliged at his death to leave his said Wife worth six hundred Pounds or some such great some, which was more, as he pretends, than all the Estate of the

said *J. T.* at the time of his Death did amount unto, and that he was greatly indebted unto divers other Persons in great sums of Mony, and that the said *E. T.* had not Affets of her said Husbands Estate, and that she also died in a mean and poor Condition; and that at the time of her Death she was indebted to divers Persons by Bonds, Judgments, Recognizances, and other Securities of an higher nature than the Debts due to your Orator, and that he hath not proved the Will of the said *E.* or taken upon him the Executorship, and that little or nothing of the Estate is come to his Custody or Possession, at other times alledging, that in regard your Orator's Wife is dead, there is nothing due to your Orator, and that if your Orator should commence any Suit against him either at Law or in this Honourable Court, it would be an absolute forfeiture of the share and proportion of your Orator in the right of his Wife by virtue of the Will of the said *J. T.* with divers other slight and frivolous pretences, whereby to defeat your Orator of his just Right, although in truth the said *J. F.* well knoweth, that there never was any such Articles or other Agreements between the said *J. T.* and his said Wife as he doth alledge, or if there were, it was for a far less sum than he now pretends, and the same was wholly satisfied by the said *J. T.* by some settlement of Lands or

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Tenements, or by some payment and payments of Money to some Person or Persons in Trust for the said E. pursuant to such Agreement if any such were, and doth also know, that a considerable Estate of the said J. T. did after his Death come unto the hands of the said E. and that she exhibited an Inventory thereof to the sum of two thousand Pounds and upwards; and the said J. F. also knows, that the said E. at the time of her Death was possessed of a plentiful Estate, which is since come to his Hands, Power or Custody, or to the Hands, Power or Custody of some other Person or Persons by his Knowledge, Order, Privity or Consent, although he endeavours to conceal the same, and hath exhibited no Inventory thereof, or if he hath exhibited any Inventory, many things are omitted and short of what the truth is, and the Goods therein mentioned are apprizd at low rates and undervaluations, far short of what they are worth; all which Actings and Doings of the said J. F. are contrary to Equity and Good Conscience, and tend to your Orators great wrong. In tender consideration whereof, and for that your Orator is not relievable by the strict Rules of the Common Law nor elsewhere, but in this Honourable Court before your Lordship, where matters of Fraud or breach of Trust are heard and determined, and for that the Witnesses who should prove the said

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Agreement, are either dead or gone beyond the Seas into places remote or unknown to your Orator: Therefore that the said J. F. to whom the truth of all and singular the premisses are well known, may upon his Corporal Oath set forth and declare the truth of all and singular the Premises, as if the same were in the Prayer of this Bill particularly reiterated, repeated and interrogated, so that your Orator may be relieved according to Right, Equity and Good Conscience. May it please, &c.

A Bill

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A Bill for discovery of a Bond lost.

Humbly complaining, sheweth unto your Lordship, your daily Orator *E. S.* of the Parish of *St. M. Westminster* in the County of *Middlesex*, Gent. That one *J. G.* of *R.* in the Parish of *Harrow* upon the Hill in the County of *Middlesex*, Yeoman, did on or about the fourteenth day of *January*, in the nine and twentieth year of the Reign of his late Majesty King *Charles* the Second, enter into one Bond or Obligation of the Penalty of fourscore Pounds, conditioned for the payment of forty Pounds to your Orator at a certain day now past, and ought to have paid the said sum of forty Pounds with lawful Interest therefore unto your Orator. But now so it is, may it please your Lordship, that the said Bond or Obligation being by casual means come to the Hands of the said *J. G.* or to the Hands of *S. A.* of, &c. or one of them, they the said *J. G.* and *S. A.* do combine and confederate themselves with divers Persons to your Orator unknown, whose Names when discovered your Orator prays my be inserted, and they made Parties hereunto with apt words to charge them how they may defeat and defraud your Orator of the said Mony due upon the said Bond or Obligation. And for that end and purpose do

do sometimes pretend and give out in Speeches, that the said *J. G.* did never enter into any such Bond or Obligation as afore-said; and at other times, that the said *J. G.* or some Person by his Order did long since satisfy the same, and that your Orator did deliver up the said Bond; whereas the truth is, the said Bond was never satisfied by him the said *J. G.* or any other Person or Persons whatsoever: but the same being come to the Hands, Custody, Power or Possession of them the said *J. G. S. A.* or one of them, or to the Hands, Custody or possession of some other Person or Persons, by and with their or one of their Privy, Consent or Procurement, or by and with the Consent, Privy or Procurement of some other of the Confederates, the said *J. G.* doth utterly refuse to pay your said Orator the said sum of forty Pounds with Interest, or any part or parcel thereof, although he hath been in a fair and friendly manner thereunto requested by your said Orator. All which said sayings and doings of the said *J. G.* and *S. A.* and the rest of the said Confederates are contrary to Equity and Good Conscience, and tend to the manifest injury and prejudice of your Orator. In tender Consideration whereof, and forasmuch as your Orator by the strict Rules of the Common Laws of this Kingdom cannot compel the said *J. G.* and *S. A.* and the rest of the Confederates to discover the truth of the Premises: And forasmuch as
your

your Orator's Witnesses that could prove the same, are either dead, beyond the Seas or in places remote and to your Orator unknown. But your Orator hopes the said *J. G.* and *S. A.* will upon their Corporal Oaths discover and set forth the truth of the Premises and deliver up the said Bond unto your Orator, when thereunto by this Honourable Court required. To the end therefore that the said *J. G.* may set forth and discover whether he did not on or about the said fourteenth day of *January*, in the said nine and twentieth year of his late Majesty King *Charles* the Second, or at any other or what time enter into one Bond or Obligation of the penalty of fourscore Pounds for the payment of forty Pounds with Interest, to your Orator. And that the said *J. G.* and *S. A.* and the rest of the Confederates when discovered, may upon their Corporal Oaths set forth and discover whether the said Bond or Obligation be not come to their, or some or one of their Hands, Custody and Possession, or to the Hands, Custody and Possession of some other Person or Persons, by and with their, or some of their Privy, Knowledge, Consent or Procurement. And may set forth where the same is, and when last they saw the same, and in whose Hands, Custody and Possession the same then was, and whether the same be Burnt, Cancelled, Obliterated, or any other way Defaced or made away, and how, where and when the same was done.

Additional Bills.

done. And that the said J. G. and S. A. and the rest of the said Confederates when discovered, may true, full, distinct and perfect answer make to all and singular the Premises, and may be compelled to deliver up the said Bond or Obligation, or that the said J. G. may be compelled to pay the said Monies due upon the said Bond ; and that your Orator may have such relief in all and singular the Premises, as is usual in Cases of this Nature. May it please your Lordship to grant, &c.

Sa. Blackerby.

A Pe

A Petition in Chancery.

A Petition to the Lord Keeper, That Publication may pass in the Cause the first day of the ensuing Term, notwithstanding the Defendants craved a Commission in delay of the Plaintiff; and that his Lordship will appoint some day towards the latter end of the Term for hearing of the Cause.

E. M. Widow Plaintiff.

*Sir T. P. Baronet, and
E. H. & al^l Defendants.*

*To the Right Honourable Sir John Somers,
Knight, Lord Keeper of the Great Seal
of England.*

The Humble Petition of the Plaintiff

Sheweth,

THAT your Petitioner Exhibited her Bill against the Defendants in *Michaelmas* Term 1693. who delayed your Petitioner two Terms before they put in their Answers; and afterwards your Petitioner replied, and examined all her Witnesses in Court; and the last Term gave the first Rule for publication; upon which the Defendants in delay of your Petitioner, craved a Com-

A Petition in Chancery,

a Commission, by which means your Petitioner is disabled to bring the Cause to hearing the next Term, according to the usual Practice of the Court.

Now for that the Cause has depended near two years, and been twice delayed by the Defendants,

Your Petitioner humbly prays your Lordship, that notwithstanding such Commission, Publication may pass the first day of the next Term, and that your Lordship will be pleased to appoint some day towards the latter end of the same Term for the hearing of this Cause.

And your Petitioner shall pray, &c.

Pleas and Answers.

The Plea of *R. F.* one of the Defendants to the Bill of Complaint of *W. H.* an Infant, by *T. C. Gent.* his next Friend and Guardian, Complainant.

The Defendant being a Trustee for younger Children, pleads in Bar to the Heirs Bill, to accompt and discover a former Decree of this Court, and two Reports of the Master, before whom his Accompts were Stated, and Reported and Confirmed by Decree of this Court.

TH E said Defendant by protestation, *Vide Bills of Accompt and Discovery, (Sect 2.)* not confessing or acknowledging all or any of the matters or things in the Complainants Bill of Complaint contained, to be true, in such sort, manner and form, as the same are therein and thereby set forth and alledged, The end of the Complainants Bill being to call this Defendant and *J. H.* the Elder, the other Defendant in the Bill named, to an Accompt, for their Receipts and Disbursements, relating to a Trust of certain Lands and Tenements in the Bill particularly mentioned, to be leased or granted by *J. H.* the Plaintiffs Father, to the said other Defendant *J. H.* the Elder, and to one *D. B.* and *W. C.* since dead, for a long term of years yet in being, in trust for raising Portions for *E. H.* since Married to *J. W.* Junior,

Pleas and Answers.

nior, and for one *H. H.* (the said *E.* and *H. H.* being two of the younger Children of the said *J. H.* the Father) to be paid them at their ages of one and twenty years, or Marriage, with interest for their maintainance till their Portions were payable; Charging, That the said *B.* acted in the Trust, and had assigned his Interest to this Defendant, and also that the said *J.* the Father had before the said Lease, upon good consideration, executed some Deed, whereby he had settled all the Premises to the use of the Plaintiff and his Heirs, in general or special Tail, and praying a discovery and delivery to him of the said Deed, and of all other Deeds concerning the Premises: This Defendant for Plea to the said Bill of Complaint, and all the matters and things therein contained, doth say, That in or about the Term of *St. Hillary*, in the year of our Lord, 1686. the said *J. W.* Junior and *Elizabeth* his Wife, and the said *H. H.* then an Infant, by his Guardian Complainant, exhibited their Bill of Complaint into this honourable Court, against the now Complainant, and the said *J. W.* the elder; And this Defendant *R. F.* thereby setting forth, That the said *J. H.* the Father being seised of divers Lands and Tenements, lying at *S.* and *B.* in the Parish of *H.* in the County of *W.* (being the same Lands and Tenements in and by the now Complainants Bill mentioned and intended) Did, for provisions and Portions for his younger Children, make a Lease thereof to the said *B.* *J. W.* the Elder,

der, and one *W.C.* for a long term of years yet in being, in trust for the raising of 500*l.* apiece, for the said *E.* and *H.* his Children, viz. 500*l.* for *E.* payable at her age of 21 years, or Marriage, and 500 *l.* for the said *H.* payable at his age of 21 years, and Interest for their Maintenance, till their Portions became payable, and that the said *J.H.* shortly after dyed, and *B.* assigned his Trust in the Premises to this Defendant, and the said *C.* being dead, the Estate in Law was in the said *J.W.* the elder, and this Defendant, in trust as aforesaid; And that the now Complainant *W. H.* being Heir at Law to the Estate, endeavoured with the Trustees to defeat the Deed of Trust, and hinder the payment of the said Portions, and they refused to pay the said *E.* her Portion, which was due upon her Marriage with interest, or to allow the said *H.* any thing for his Maintenance and Education; And therefore to compel the Trustees to discover the Deed of Trust, and for relief in the Premises, they the said then Complainants craved the aid of this Court, and process of Subpœna against the Defendants, to compel them to answer the Bill; Which being granted, and they therewith served, they appeared accordingly, and answered the said then Defendant and now Complainant *W. H.* answering by his Guardian especially assigned by this Court; and he and this Defendant by their Answers setting forth, That the said *J. H.* the Father, by his Indenture of the 15 of November, 28

Pleas and Answers.

Caroli Secundi, did demise to the said *D. B.* *J. W.* the elder, and *W. C.* the Messuage and Lands in the said Deed mentioned, (being the same by the now Complainants Bill intended,) and worth about 140 *l. per annum*, To have and to hold the same to them and their Assigns from the Feast of *St. Michael* next before the date of the said Indenture, for the term of 500 years, upon Trust that they, their Executors and Assigns out of the Rents and profits of the Premises, should decently Educate and breed up the now Complainant *W. H.* and the said *E.* and *H. H.* with such convenient Schooling, Trade or Trades, or otherwise, as they the said Trustees should think fit and convenient, and above what Sum or Sums of Mony should be expended, about the Educating and Breeding the said Children, should out of the Rents and Profits of the Premises, and otherwise by letting or demising of the same to any person or persons, for any parcel and part of the said Term, for Fine or Fines, with reservation of only a Pepper-Corn, or some small Rent, raise and pay unto the said *H. H.* 500*l.* when he should attain his age of 21 years, and to the said *E.* 500*l.* for her Portion, at her age of 21 years, or day of Marriage, which should first happen: as by the said Indenture might appear. And that the said *W. C.* dyed soon after the making of the said Deed, and *J. W.* the elder had not intermeddled with the Trust, but that the said *B.* had entred on the Trust Lands, and for some

some time maintained the younger Children, but being an ill Husband and insolvent, the now Complainant was desirous to have the Trust assigned by *B.* to this Defendant, which was done accordingly, by Indenture dated the 16th of *August*, 1687. And that this Defendant had been at great charges and expences in maintaining the now Complainant, and soliciting divers Suits for him, and procuring *B.* to Surrender, and in Journies and taking possession, and otherwise, and was willing to joyn with the said *J. W.* the elder, in the execution of the Trust, so he might be indemnified by the Order of this Court; And the now Complainant *W. H.* being then near nineteen years of Age, and a Defendant to the said Bill, submitted to the discretion of this Court; And the said *J. W.* the elder, said he never acted in the Trust, yet was ready to do any act the Court should think fit, about the performance thereof; And all the Defendants denied Combination, and concluded their Answers with the general Traverse: as by the said Bill and Answers remaining on Record in this Honourable Court, may appear. And on the tenth of *December*, 1689. the said Cause coming to be heard, in presence of Counsel learned on both sides, The substance of the Bill and Answers appearing to be, as is before recited, This Court thereupon and upon debate of the matter, and hearing Counsel on both sides, did think fit and so ordered and decreed, That the said *J. W.*

the elder, and this Defendant should joyn in the execution of the Trust, according to the said recited Indenture; And in order thereunto should receive as well the Arrears of Rent, as the growing Rents and Profits of the Premisses, and should educate and provide for the now Complainant *W. H.* and the said *H. H.* according to the said Indenture of Trust, in such manner as Sir *Lacon William Child*, Knight, one of the Masters of this Court should approve of, and should apply the residue of the said Rents and Profits towards the payment of the said 500 *l.* due to the said *E.* at her day of Marriage, with Interest for the same, after the rate of 6 *l. per annum*, for each 100 *l.* together with the Costs of this Suit, to be Taxed by the said Master; And that the same might be more speedily raised, the said *J. W.* the elder, and this Defendant as soon as conveniently they could, should raise Mony by demising, setting, letting, or mortgaging the Premisses, or any part thereof, to such person or persons, for such part of the said term of five hundred years, as the said Master should approve of, and should pay the same to the said *J. W.* the younger and *E.* his Wife; And when the said *H. H.* should come to 21 years of Age, the said *J. W.* the Elder and this Defendant were to raise and pay to him his 500 *l.* out of the Profits of the said Estate, or by leasing or mortgaging the same: And they were by the said Decree protected and saved harmless by the aid of this Court, and

to have all just allowances of Monies by them or either of them expended and to be expended, in relation to the said Trust, the same to be allowed by the said Master: In pursuance of which Order, the said Master by his Report, dated the second day of *March* then next, made after hearing on both sides, did think fit that this Defendant should be allowed the Sum of 40 *l. per annum*, for the maintainance and education of the now Complainant *W. H.* and the Sum of 20 *l. per annum*, for the maintainance and education of the said *H. H.* according to the Indenture of Trust, out of the Rents and Profits of the Premises, and the Sum of 37 *l. 3 s. 4 d.* for Costs of the said Suit; Which Report was afterwards by order of this Court, upon hearing Counsel on both sides, confirmed by the Decree of this Court. All which proceedings were afterwards drawn up into a Decree, and duly Signed and Inrolled, as by the same remaining on Record in this Honourable Court, may more fully and at large appear: And on the eighth of *May* last, upon the Complainants Petition, complaining of the Defendants Accounts then before the Master, suggesting the same to be allowed by him, It was ordered upon the Complainants Petition, that the said Master should review his Accounts; In pursuance of which Decree and Order of the eighth of *May*, the said Master having considered of the matters thereby to him referred, and reviewed this Defendants Ac-

counts, did, by his Report, dated the tenth of *July* last past, certifie, That the Defendant hath paid and disbursed for the now Complainant, for his maintainance and education, and in Mony by this Defendant expended in this and other Suits in this Court, touching the Estate in question, with the Monies paid to the said *D. B.* upon the Assignment of his Trust, and for divers Journeys into the Country about the Estate, from the 23th of *November*, 1686. to the 20th of *November*, 1687. several Sums, in the whole amounting to 227 *l.* 17 *s.* 4 *d.* And the said Master by the same Report hath farther certified, That he had considered of the Defendants farther Accounts, brought in before him, which this Defendant had paid and disbursed for the maintainance of the now Complainant, and of the said *H. H.* and for repairing of the Premisses, and taking several Journies into the Country to let the Estate and receiving the Rents and raising the Portion of the said *E.* and for several Law Charges, and other allowances and Mony lent to the now Complainant, and paid for him for Clothes and other Necessaries, from the 23 day of *November*, 1687. to the 24th of *June* last past, the Sum of 307 *l.* 19 *s.* 9 *d.* in all 535 *l.* 17 *s.* 1 *d.* And that this Defendant (being the only acting Trustee touching the Premisses) had received out of the Rents and Profits of the Premisses, and by the said *Elizabeths* Portion in the same time, the Sum

Sum of 368 *l.* which being deducted out of the 535 *l.* 17 *s.* 1 *d.* there remains due to this Defendant the Sum of 167 *l.* 17 *s.* 1 *d.* which this Defendant is to receive out of the Rents and Profits of the Premisses in question, according to the direction of the said Order or Hearing : As by the said Report remaining filed with the Register of this Court, may also appear. Which Report is also confirmed by the Order and Decree of this Court : As by the same Orders entred with the Register of this Court may likewise appear. And this Defendant averreth, That since the 24th day of *June* last, he hath not received any Rents or Profits of the Premisses, or any part thereof, the same being stayed in the Tenants Hands by Order of this Court : And that in farther pursuance of the said Decree the Master hath allowed of an Assignment of the said Lease and Term of five hundred years, by way of Mortgage, for raising of Mony to pay the Portion and Interest due to the said *E.* Which Assignment this Defendant hath executed according to the Masters direction, and pursuant to the said Decree ; Wherefore, and for that the now Complainant by his now Bill of Complaint, seeks to bring this Defendant, who is only a Trustee to a new Account, for the Receits and Disbursements, and to unravel his Accounts which have been already stated and settled by the Decree of this Court, which if the Plaintiff should be permitted to do, this Defendant will be thereby

thereby put to double charge and trouble in being drawn into several Accounts for the same matters, after his Accounts stated and settled; And for that the said *H. H.* and *J. W.* Junior, and *E.* his Wife, who have the like right to call this Defendant to Account, as the now Complainant hath, are no Parties to the now Complainants Bill, whereby this Defendant, if lyable to a new Account, may be again called to a farther Account by them, or any of them, and so doubly vexed for the same matters; And for that the now Complainant might, if he had pleased, have controverted this Defendants Accounts before the said Master, in the said former Suit, wherein the said Decree and Proceedings were had and made; And for that the discovery of the pretended Settlement whereby the Complainant pretended to be Heir General or in special Tail, tends to destroy the said Lease and Term, and provision thereby made, as well for the said Complainant, as the said *H.* and *E.* and consequently to defeat the Assignee or Mortgagee of the Premises (who is a Purchaser, or in nature of a Purchaser for a valuable consideration, and no party to the Complainants Bill) of his Mony: This Defendant therefore pleads the said Decree, Proceedings, and matters aforesaid, in Bar of the now Complainants Bill, and of the Account and discovery thereby prayed, and humbly demands the Judgment of this Honourable Court, and rests and abides therein

therein, whether he shall be compelled to make any farther or other Answer to the now Complainants Bill, and humbly prays to be hence dismissed with his reasonable Costs and Charges in this behalf most wrongfully sustained.

The joynt and severall Answers of J. W. Sen. the other Trustee, and J. W. Jun. Husband of E. the Complainants Sister.

THE said Defendants saving and reserving to themselves, now and at all times hereafter, all and all manner of Advantages and Benefit of Exception to the many Untruths, Incertainties, Insufficiencies and Imperfections in the Complainants Bill of Complaint contained, for a full and perfect Answer thereunto, or to such part thereof, or so far as it materially concerns these Defendants, or either of them, to make Answer unto; They severally answer and say, and first the Defendant J. W. the Elder, for himself severally answering saith, That J. H. late Father of the Complainant was in his life-time possessed of certain Lands, Tenements and Hereditaments, in G. and E. in the Parish of H. in the County of W. of the yearly value of 182 l. or thereabouts, and not 200 l. and upwards, as the Complainant in and by his said Bill of Complaint hath vainly suggested. And this Defendant farther answering saith, That the said J. H. the Complainants late
Father

Pleas and Answers.

Father being in his life-time a Man given to much drinking, and easy to be led away by ill Company: Some Friends of the said *J. H.* knowing that he the said *J.* had a power to make a Settlement of the said Premises, having compassion on his younger Children, of which number the Complainant was one, prevailed with him to settle his Estate in Trust, so that there might be some provision made for the younger Children of him the said *J. H.* And thereupon he the said *J. H.* did as in the Bill is mentioned, execute a Deed of demise of the Premises for a long term of years then to come and yet unexpired to this Defendant *D. B.* one other of the Defendants in the Complainants Bill of Complaint mentioned and *W. C.* deceased, for raising 500 *l.* apiece for the younger Children of the said *J.* payable to them at their respective Ages of 21 years, or day of Marriage of *E. H.* the Complainants Sister, as in and by the Complainants Bill of Complaint is mentioned; But the said *J. W.* the elder utterly denies he ever insinuated himself with the said *J. H.* or used any indirect means for procuring of such Deed of Settlement or Demise; Neither did this Defendant at the same time, or any time before or after know that the said Lands and Premises, were by several Deeds and Conveyances so settled, that the Complainants Father had no power by Law to make such Settlement or Lease as aforesaid, as the Complainant in and by his said

said Bill of Complaint hath most untruly and falsely suggested: And this Defendant farther answering saith, that he believes it to be true, That *J. H.* the Complainants Father and *R. H.* the Complainants elder Brother are both dead, and that the sole and undoubted right to the Premises may be vested in the Complainant, upon his discharging the Incumbrances charged thereupon, by the said *J. H.* his Father, in his life-time, and all other Incumbrances, created by Law-Suits since his death: But this Defendant utterly denies that he ever intermeddled as the only acting Trustee, or received any of the Rents, or made any benefit of the Premises in question, since the death of the said *J. H.* or that he hath any ways wronged or defrauded the Complainant, or made away with, cancelled or defaced, or ever knew of, or hath in his custody, or knows how to come at, any such Deed or Writing, which the Complainant in his Bill of Complaint vainly and without any manner of ground pretends would bar his Fathers Deed of Trust, and fix the Inheritance of the Premises in question in himself, and clear him from paying his Brother and Sisters Portions, and discharge the other Incumbrances upon the said Estate; Neither doth this Defendant believe that there was ever any such Deed or Writing, that would bar or affect the Trust, had not the same been confirmed by the Decree of this Honourable Court, signed and inrolled, the which
this

Pleas and Answers.

this Defendant is advised he might have pleaded to the Complainants now Bill of Complaint, and humbly hopes and conceives he shall reap as much benefit thereby as if he had pleaded the same. And the said Defendant farther answering saith, That he believes it to be true, that the Defendant *B.* might assign his Trust to the other Defendant *F.* about the time in the Bill, and that there might be such proceedings in this Honourable Court, as in and by the Complainants Bill of Complaint is for that purpose set forth; But this Defendant utterly denies that he knows what Money the Defendant *F.* paid to *B.* for such assignment of his Trust, or in what capacity or condition the said Defendant *F.* was in at that time. And the Defendant *J.W.* the younger, for himself severally answering, saith, that true it is, that he did intermarry with and take to Wife *E.* the Complainants Sister, at which time he this said Defendant might have had a greater Fortune, having 50 *l. per annum*, good Land of Inheritance, notwithstanding the Complainant in his Bill of Complaint most untruly suggested, that this Defendant was a Man of no Fortune. And this Defendant further answering saith, That he hath received as a Portion with the said *E.* his Wife, the Sum of 558 *l.* and no more, being part of the Sum of 600 *l.* procured by the Defendant *F.* who is the only acting Trustee, as this Defendant hath been informed, and verily believes to be true. And also that the
said

said Defendant *F.* did raise the same by way of Mortgage upon part of the intrusted Estate pursuant to the Decree of this Honourable Court. And this Defendant craves a further allowance of 42 *l.* remaining yet due to him of his said Wifes Portion, there being due to her at the time of his Inter-marriage with her for Principal and Interest the just Sum of 600 *l.* the which this Defendant, under the favour of this Honourable Court, conceives to be his Right. And the said Defendant further answering saith, That he knows nothing concerning any such Deeds or Writings, as in the Complainants said Bill of Complaint is mentioned, or how the said Complainants Father came to settle the said Estate in Trust, or how he was seized or possessed of the same, being altogether a Stranger thereunto, but refers himself to the several Answers of the several other Defendants in the said Complainants Bill of Complaint named. And the said Defendant *J. W.* the elder, for himself farther saith, That he never intermeddled with the Trust, or received any of the Rents since the Defendants *B.* Assignment of the same to the Defendant *F.* but left the same to *F.* who was the Plaintiffs Guardian, and the only acting Trustee. Neither hath this Defendant at any time advantaged himself one peny by the Estate, but on the contrary, this Defendant doth aver that he is some hundred of Pounds the worse for his Kindness to the Complainant, and the securing the Estate from going
from

from him, the which the Complainant ought to have been sensible of, and not to have vexed this Defendant with this vexatious Suit. All which this Defendant well hopes this Honourable Court will in due time take notice of. And both these Defendants deny all and all manner of Combination with the other Defendant, or any other person or persons whatsoever, with an intent to defeat and defraud the Complainant, as in the Complainants Bill of Complaint is untruly suggested. Without that, that any other matter or thing, in the Complainants Bill of Complaint contained, material for these Defendants to make Answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which these Defendants are ready to aver, maintain and prove, as this Honourable Court shall award; and pray to be hence dismissed with their reasonable Costs and Charges in this behalf most wrongfully and unjustly sustained.

The Defendant pleads several Outlawries after Judgment in Bar to the Complainants Bill.

Section 3.

THE said Defendant not confessing nor acknowledging all or any of the Matters in the Complainants said Bill contained to be true in such manner and form as the same are thereon declared and set forth, for Plea thereunto saith, That the Complainant

plainant now is, and standeth a person outlawed in several Actions, and so is, and standeth disabled by the Laws of this Realm to sue or commence any Suit or Suits in this Honourable Court, or in any other Court, until the same Outlawries are reversed : For he saith, That on *Munday* next after the Feast of St. *John* before the *Latin Gate*, in the three and twentieth year of his Majesty's Reign that now is, the Complainant was outlawed after Judgment at the Suit of *W. W.* in an Action of Debt. And on *Munday* next before the Feast of the Conversion of St. *Paul* in the twelfth year of his said Majesty's Reign, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *E. B.* And on the sixth day of *June* in the two and twentieth year of his said Majesty's Reign that now is, the Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *A. H.* Widow. And on *Monday* next before the Feast of the Translation of St. *Edward* King and Confessor, in the three and twentieth year of his said Majesty's Reign that now is, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *W. W.* Gent. And on the second day of *November* in the fifteenth year of his said Majesty's Reign that now is, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *J. H.* And on *Monday* next before the Feast of the Purification of the

Blessed Virgin *Mary* in the year of our Lord One Thousand Six Hundred Fifty Eight, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *R. B.* and others. And on the second day of *November* in the fifteenth year of his said Majesty's Reign that now is, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *M. H.* Spinster. And on *Monday* next before the Feast of the Purification of the Blessed Virgin *Mary* in the Year of our Lord One Thousand Six Hundred Fifty Eight, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *W. W.* Gent. And on the third of *October* in the four and twentieth year of the Reign of his said Majesty that now is, the said Complainant was likewise outlawed after Judgment in an Action of Debt at the Suit of *C. W.* Gent. as by the said several Outlawries *sub pede Sigilli* hereunto annexed may appear, which said Outlawries as yet do stand unreversed. And this Defendant doth aver, that the said *F. R.* Complainant named in the said Bill of Complaint, and the said *F. R.* named in the said several Writs of *Capias Utlagatum* hereunto annexed, is one and the same person, and not divers and several. And therefore this Defendant doth demand Judgment whether or no he shall be compelled to make any other or farther Answer to the Complainants Bill of Complaint, so long as the said Outlawries do

do stand in force against the Complainant and not reversed.

The Defendant, as Heir at Law, pleads in Bar to the Complainants Bill a Deed of Purchase by his Father in Fee-Simple from E. G. with Fine and Proclamations duly levied, and that his Father being so seised made a Joynture of the Premises to his Mother with Remainders over, who enjoyed the same for her Life, after whose Death the same descended to him as Heir at Law by virtue of the Deed of Settlement: And that his Title is under a Purchaser for a valuable consideration, and paramount to the Title the Complainant makes by his Bill.

THE said Defendant by Protestation not Sect. 4. confessing or acknowledging all or any, &c. For and by way of Plea thereunto this Defendant saith, That *A. H.* this Defendants late Father, having for several years been Tenant to *E. G.* of the Messuages and Tenements in the Bill mentioned, did purchase of the said *E. G.* the Fee-simple or Inheritance of the same, And that he the said *E. G.* did by Deed, and Fine with Proclamations duly levied and had, and executed in the Year of our Lord One Thousand Six Hundred and Fifty, for a valuable consideration, being the Sum of one thousand pounds to him paid, grant and convey the said Messuages in the Complainants Bill of Complaint mentioned to the said *A. H.* and his

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Heirs and Assigns for ever. By virtue whereof the said *A. H.* of the said Messuage or Tenements and Premisses, was in the possession thereof; and being so seized he the said *A. H.* in the Year of our Lord One Thousand Six Hundred Fifty One by good Conveyance and Assurance in the Law duly executed, settled the same upon his then Wife for her Life for her Joynture, with several Remainders over, as by the said Fine and Conveyances, Relation being thereunto had, may appear. And in or about the Year of our Lord One Thousand Six Hundred Fifty Four, the said *A. H.* did erect and build, or cause to be erected and built on part of the purchased Premisses three more Houses or Tenements wherein he expended a considerable Sum of Mony. And the said *A. H.* quietly enjoyed the said Messuages or Tenements and Premisses, during his Life, and after his Death the same was enjoyed by his said Wife, as her Joynture, during her Life, who died about *March* last past; after whose death the same descended and came to this Defendant by virtue of the said Deed of Settlement: By virtue of which Conveyance made in One Thousand Six Hundred Fifty and One, and as Son and Heir of his Father, this Defendant claims and makes Title to the Premisses, and is become seized and in full possession thereof. And therefore his Title to the Premisses being under a Purchaser really and *bona fide*, and paramount to the Title, the Complainant makes by his Bill, This Defendant

dant doth rely thereupon : All which this Defendant doth aver, and is ready to prove as this Honourable Court shall award. Wherefore this Defendant pleads his said Title, and the Purchase, and Settlement, and the Fine and Proclamations and Matters aforesaid in Bar of the Complainants said Bill, and of the discovery and relief thereby prayed. And humbly demands the Judgment of this Honourable Court, whether he this Defendant, being under a Purchaser for a valuable consideration as aforesaid, paramount the Complainants pretended Title set forth in his Bill, shall be compelled to make any Answer to the said Complainants Bill. And humbly prays to be hence dismissed, &c.

The Defendant pleads the Statute of Limitations in Bar to the Complainants Bill brought against him for Fees.

THE said Defendant by Protestation not confessing or acknowledging all or any the Matters or Things in the Complainants Bill of Complaint contained to be true in such manner and form as they are therein set forth and declared, For Plea thereunto saith, By an Act of Parliament held at Westminster in the County of Middlesex, in the one and twentieth year of the Reign of King James the First, for Limitations of Actions, and for avoiding of Suits in Law : It was thereby enacted, That all Actions of Trespas,

Sect. 5.
Vid. Bills for
Fees, &c.
fol. 1. sect. 1.

Quare Clausum fregit, all Actions of Trespass, Detinue, Actions *sur* Trover, and Replevin for taking away of Goods and Chattels, all Actions of Account, and upon the Case, other than such Accounts that concern the Trade of Merchandize between Merchant and Merchant, their Factors or Servants, all Actions of Debt grounded upon lending or contract without Specialty, all Actions of Debt for Arrerages of Rent, and all Actions of Assault, Menace, Battery, Wounding or Imprisonment, or any of them which shall be sued or brought at any time after the end of that Session of Parliament should be commenced and sued within the time and limitation in the same expressed, that is to say, the said Actions on the Case (other than for Slanders) and the said Actions for Account, and the said Actions for Debt, Trespass and Detinue of Goods, and Replevin of Goods and Chattels, and the said Actions of Trespass, *Quare Clausum fregit* within three years after that Session of Parliament, or within six years next after the Cause of such Actions and Suits and not afterwards, and the said Actions of Trespass of Assault, Battery, Wounding, Imprisonment or any of them, within one year after the end of that present Session of Parliament, or within four years next after the Cause of such Actions or Suits, and not after. And the said Actions of the Case for Words within one year next after the end of that present Session of Parliament, and within two years after the Words spoken
and

and not after. And now forasmuch as the Scope of the Complainants Bill is to have a Debt of Seven Pounds Six Shillings and Ten Pence, which as he pretends was due to him for Fees, and Mony laid out and expended in the solliciting and managing of the Suit or Cause in the Bill mentioned for the said Defendant in the year of our Lord One Thousand Six Hundred Eighty and Three, and Five Pounds that the said Defendant promised in the said year to give him for his extraordinary Care and Pains in the managing of the said Cause, which said Debt contracted and Gift promised by the Defendant to the Complainant being a Debt and Gift promised in the said year One Thousand Six Hundred Eighty and Three, as by the Complainants Bill is alleged, and by his own shewing is more than eight years past since the said Debt contracted and the said Gift promised; and the same not relating to any Merchants Accounts, their Servants or Factors; and no Suit having been commenced within the time of the said Act of Parliament limited by the said Complainant against the Defendant for the said Mony in the Bill mentioned, or any part thereof, this Defendant by his Council is advised that the said Suit for the said Debt and Promise for the said Gift is barred by the said Act of Parliament, and that the Complainant ought not to be relieved for the same. And therefore this Defendant doth plead the said Act of Parliament in Bar to the said Com-

plainants Demands, and humbly prays the Judgment of this Honorable Court, whether he shall be compelled to make any farther or other Answer to the said Complainants Bill of Complaint. And humbly prays to be hence dismissed with his reasonable Costs and Charges in this behalf wrongfully and without just Cause sustained.

An Answer to a Bill exhibited against the Defendant for setting up a false Will.

(3)
Vid. Title
Fraud and
Collusion,
Sect. 1.

THIS Defendant saving and reserving to her self, &c. For Answer, &c. answereth and saith, That she this Defendant doth not know what personal Estate J. J. in the Complainants Bill mentioned at the time of his death, died possessed of, but believes he did make his Will in Writing, and thereof R. J. his then Wife Executrix, to whom he also devised the Sum of 1400 l, but without any direction for her to dispose of the same amongst her Relations, and that he died on or about the Month of *December*, 1683. And this Defendant likewise believeth, that soon after his death the said R. J. proved his Will and took upon her the Execution thereof, and possessed herself of so much of his personal Estate, as she could discover and come at, sufficient to pay all his just Debts and Legacies. But this Defendant doth not know what Improvement the said R. J. made of the Estate left by the said J. J. but believes she made

no

no Improvement. And this Defendant farther saith, that sometime after the death of the said J. J. she the said R. J. being in discourse with the Defendant about making her Will, she then told this Defendant, that she would make this Defendant her Executrix, she the said R. J. at the same time, and several times before, expressing a very great Kindness and Affection for this Defendant, she having bred this Defendant up from a Child; and this Defendant having all along lived in the House with her, and looked unto, and taken Care of her the said R. J. But this Defendant being at that time ignorant of the nature of an Executorship, and fearing she should come into trouble thereby, desired the said R. J. not to make this Defendant Executrix, but to make some of her Relations Executors; for which the said R. J. then blamed this Defendant saying, She had no nearer Relations, and that she designed to take care of, and do very well for this Defendant, and used Words to that Effect: But this Defendant being informed, that the Complainant was some ways related to the said R. J. she the said Defendant or one S. W. a Relation of this Defendants did desire the said R. J. to send for the Complainant, and at their desire the said R. J. did send unto the Complainant to desire him to come to the said R. J. but what particular discourse passed between the said persons and the Complainant this Defendant doth not know. But this Defendant saith, That the Complainant

plainant did accordingly come to the said R. J. about the time in the Bill for that purpose mentioned, and did bring another person with him. And this Defendant also believes it to be true, That the said R. J. did then give some instructions touching the making of her Will, but what such Instructions were this Defendant doth not know, nor doth this Defendant know that the said R. J. then gave the Complainant an account of what Mony she had by her in the House, nor did she desire him to tell over the same to the knowledge of this Defendant. But this Defendant believes she did then give the Complainant an old Watch worth about 15 s. and shew him some single Mony which she designed to have disbursed among some poor People after her decease. And this Defendant likewise believeth, that the Complainant did go away at that time, and about Nine a Clock at Night on the same Day he came again, and brought a draught of a Will wherein he was named Executor, which being read over to the said R. J. she did not approve thereof, but said there should be several alterations made therein, as this Defendant remembers, and that she had forgotten some persons she intended to give Legacies to, and so the draught of the said Will was left in the Room never executed, but soon after the said R. J. burned it with her own Hands, and soon after she the said R. J. caused another Will to be made, and of that Will she made this Defendant sole Executrix, and thereby gave

gave the Complainant a Legacy, as this Defendant remembers; But the said R. J. having afterwards taken some displeasure at the Complainant, and being willing to alter her Will, she the said R. J. about the 11th day of October, 1690. did cause another Will to be drawn, which she voluntarily made and executed, published and declared to be her last Will and Testament in the Words following, (recites the whole Will,) and (*inter alia*) gave to the Defendant by the Name of P. H. my now Servant, all and every my Messuages and Tenements in the Parish of, &c. for all such term and terms of years, as I have therein, together with the Leases and Writings relating thereunto; and gave to the now Complainant the Legacy of 10 l. in these Words: Item, I give unto my Cousen G. L. of London, F. 10 l. of the like lawful English Mony, having intended a better Provision for him, had his Behaviour to me deserved it. All the rest, residue and remainder of my Mony, Debts, Plate, Jewels, Goods, Chattles and Estate whatsoever, real and personal not herein before disposed of, I do hereby give and bequeath unto the said P. H. my Servant in respect of her great Care and Tendernefs she hath had over me, and of her faithful Service to me and my said late Husband for several years last past. And I do hereby make, ordain and appoint the said P. H. my sole Executrix of this my last Will and Testament. And do hereby revoke, &c. Dat. 11 Octob. 1690. As in and by the Probate of the said last Will and Testament of the said R. J. under the

the Seal of the Prerogative Court of *Canterbury* now in the Defendants Custody, and to which she this Defendant referreth herself, doth and may appear. And this Defendant farther saith, that sometime after the making of the said last mentioned Will, viz. on or about the 20th day of *August* last she the said R. J. departed this Life, soon after whose decease, to wit, on the 22th day of *August* last, and not before, this Defendant took the usual Oath in order to the proving of the said Will; but the same did not pass the Seal of the Office till the 25th day of the same Month of *August*, as in and by the Probate of the said Will under the Seal of the Prerogative Court of *Canterbury*, and the Entries in the said Court to which for her better certainty therein she refers herself, may appear. And this Defendant saith, the occasion of proving the said Will so soon after the said R. J.'s death was because she had by her Will directed 100 l. to be expended on her Funeral, and this Defendant was advised, she could not safely act therein till she had proved the said Will, and it was not out of any evil design whatsoever, but only what she was advised by her Friends was expedient to be done; and there was no occasion that she knows of, of entring any Caveat, however a Caveat was entred by one Mr. *Jacob*, a Relation of her Husband, who upon producing the said Will and the Testimony there was of it, did withdraw the Caveat. And she is advised she was not obliged or had any reason to
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give notice to the Complainant or any other person of her proving the said Will; and saith, that she having duly proved the said Will by virtue thereof this Defendant is well intituled unto, and hath possessed her self so much as she could of the personal Estate of the said R. J. and hath and intends fully to perform the said Will, and confesseth that there is Assets sufficient to pay and satisfie all the said *Rachels* just Debts, and to perform her Will. And this Defendant is ready and willing to pay unto the Complainant the Legacy given unto him by the said Will. And this Defendant hath already of her own free accord given unto the Complainant and his Wife Mourning, which they seemed to accept of very kindly from this Defendant; and they did not then pretend to question the Validity of the said R. J. her Will. And this Defendant denieth that the draught of the Will, which the Complainant prepared for the said R. J. to seal, was left with this Defendant, nor did this Defendant undertake to get the same executed by the said R. J. nor did this Defendant get and keep the draught of the said Will; nor did this Defendant send for any of this Defendants Relations to come and stay with this Defendant in the House with the said R. J. nor did they or this Defendant hinder the Complainant from seeing the said R. J. when he came to her House to see her; nor doth this Defendant remember that the Complainant came above twice to see her the said R. J. after the time he left the
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aforesaid draught, at one of which times he demanded the Sum of 10 s. for making the said draught of the said Will, which said Sum and 5 s. more, for some charges he pretended he had been at, the said R. J. sent to the Complainant. And saith, That the said R. J. her altering her mind as to any supposed kindness she might have for the Complainant, is not very strange, if it be considered (as the truth is) That although he was her Relation, yet he was a very remote one, being but Cousins twice or thrice removed, as this Defendant believes, and besides, being one she had no correspondence with, nor (as this Defendant believes) had so much as seen for near twenty years, before such time as he was brought to her, by means of this Defendant, as aforesaid; unless it was once about twelve years before accidentally in the Street, when he was so uncivil to her (as this Defendant hath heard her tell) that he would not own her, although his elder Brother being then with him, did acquaint him she was their Relation; And after she was better acquainted with him (which was through this Defendants means, as aforesaid) she repented she had ever sent for him, but having paid him the charge she had been at about getting the draught of the said Will made, did burn the same, and pursued her former intentions of making this Defendant her Executrix, which she did by a Will deliberately made and published, above ten Months before her death,

death, as aforesaid. And the making this Defendant her Executrix was no more than what she had many times both long and lately before declared her intention to be; she having not only bred up this Defendant from a Child, as aforesaid, but also this Defendant farther having been an Apprentice to her Husband, and many years his Journey-woman, for whom likewise she and her Husband had a great kindness, and who, as this Defendant hath heard her Mistress say, did help to get the Estate she had; and therefore, and for that this Defendant had been very servicable to her in her Health and Sickness, she declared a great affection for this Defendant, and as this Defendant believes, would never have thought of making any other Executors, if this Defendant through her own simplicity had not opposed the same, as aforesaid. And it was of her own free will that she did reject this Complainant and prefer this Defendant; and though the Estate she is likely to get by her Executorship will not be any thing near what is so extravagantly suggested by the Bill; yet whatsoever the same shall be, she doth insist she is lawfully intitled to it, and is not obliged to give the Complainant any Account thereof. And this Defendant denieth that she this Defendant did cause a Will to be made by the Will which the Complainant left. And this Defendant denies that the Will herein before set forth, is a fraudulent Will, or was obtained by
any

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any undue and unlawful means, but the same was freely and voluntarily made and executed by the said R. J. at a time when she was in good Health, and of a sound and disposing Mind and Memory, and very well knew what she did, she having very often in her life-time, both before and after the making thereof, declared to several persons, That she would leave this Defendant her Executrix, or words to that effect, as this Defendant doubts not to prove. And this Defendant denies that the said R. J. did to her knowledge own the Complainant to be her nearest Relation, and declare, That in point of Conscience she was obliged to leave him the greatest part of her Estate, or leave him Executor, or to that effect; nor was the Complainant her only Relation (as the Bill suggests) he having an elder Brother living, as this Defendant is informed and believeth, nor was the Complainant Cousin German to the said R. J. as she hath declared, but as this Defendant hath heard and believes, only a second or third Cousin. And this Defendant denieth all Combination, and therefore, and for the Reasons aforesaid, this Defendant humbly hopes, under favour of this Honourable Court, she shall not be obliged to make a discovery of the personal Estate of the said R. J. or to make any farther Answer to the Complainants Bill, without that, that, &c.

Two Infants by their Guardian Exhibit a Bill against the Executors of the Testator their Father, to which Bill the surviving Executor Answers, as followeth.

ALL Advantages of Exception to the Incertainties, Insufficiencies and Imperfections of the Complainants said Bill of Complaint, now and at all times hereafter, saved and reserved unto this Defendant; for Answer thereunto, or so much thereof as he this Defendant is advised is any ways material for him this Defendant to make Answer unto, doth answer and say, That he believes it to be true, that *J. W.* the Complainants Father in the Bill named, was in his life-time and at the time of his death, possessed and interessed of and in a very considerable Estate, but of what certain Value or the Particulars thereof this Defendant knoweth not, nor can set forth. And that at the same time, for that purpose mentioned in the Bill, he the said *J. W.* did make his last Will and Testament in Writing, as in and by the said Bill is set forth, or to that effect, save that by the said Will the said *J. W.* did order, appoint and declare, That it was his mind and true meaning that his Executors should with the advice and approbation of his Overseers, or the Survivors of them, put out and lend to some Company, Guild or Fraternity in *London*, or lay out in buy-
ing

Vide Bills of Account and Discovery, Sect. 3. f. 242.

ing of Leases for years, or upon Mortgage, or to able Persons, upon good Security, his Childrens Portions for bettering of the same, and maintaining and educating his said Children, wherein he desired their utmost care, in which Clause in the said Will there are no such words (*and not otherwise*) as the Bill suggests: And farther, in and by the said Will he did desire and appoint, That his Executors should twice yearly meet with his Overseers, make up and perfect a plain and full Account and Manifestation in Writing unto and with the said Overseers, of, for and concerning all such Monies, Debts, Payments, Receipts, Disbursements, and all other things touching his Estate, or any way concerning or relating unto the execution of his Will, fit and needful to be incerted therein, a Copy of every of which Account, and Manifestation to be fairly written and subscribed by his Executors, and delivered to his Overseers, to the intent in the said Bill mentioned; as by the said Will, proved in the Prerogative Court of *Canterbury*, more at large appeareth, and to which this Defendant for more certainty referreth himself. And this Defendant farther saith, That about the time mentioned in the Bill, the said *J. W.* dyed, possessed of a great Personal Estate, consisting, as he believes, of such things as are particularly mentioned in the Bill, but of what particular value this Defendant knoweth not. And this Defendant saith, he believeth

vetth it to be true, That the said Testator *J. W.* was at the time of his death seised of such Real Estate as he took upon him to devise in and by his said Will, but this Defendant knoweth of no other Real Estate that the said *J. W.* had. And this Defendant farther saith, That he, together with the said *T. W.* and *P. W.* did prove the said Will in due form of Law, as he this Defendant is advised, and joyntly took upon them the Execution thereof. But this Defendant saith, That the said *P. W.* as this Defendant believes, was the chief acting Executor, and took upon him the sole management of the said *J. W.*'s Personal Estate; for this Defendant saith, he, or any for him never possessed himself of any part of the Estate of the said Testator *J. W.* other than to receive the Rents and Profits of the Houses in *Gutter Lane*, a great part whereof he expended about maintaining and educating the Children of the said Testator; and other part thereof in building and repairing of the same Houses and other Mony paid to the said *P. W.* to be employed in the management of the said Testators Estate, and in other things relating to the government of the said Estate. And this Defendant saith, according to the direction of the said Will, he did several times make up his Accounts in Writing, and deliver them to the Overseers of the said Will, and which Accounts so delivered by this Defendant in as aforesaid, he averrs were true and just Accounts of all his act-

Pleas and Answers.

ings and dealings, and of all his Receits and Payments, with or in relation to the Personal or other Estate of the said *J. W.* But this Defendant having no Copies of such Accounts, he cannot now set forth the particulars thereof, but refers himself to them when they shall be produced, being, as this Defendant believes in the hands of the said Overseers, or some of them, and where the Complainants may have access to them, or Copies of them, if they please, as this Defendant also believeth; and this Defendant cannot give the Complainants any farther Account or Answer touching the said Executorship other than those delivered to the said Overseers, as aforesaid, and other than the Account hereafter set forth, to wit, that the last Account which this Defendant made up with and delivered to the said Overseers, as aforesaid, ending the 8th of *March*, 1672. he this Defendant hath annexed to this his Answer, a Schedule of all his Receits and Payments since that time, which Schedule this Defendant prays may be taken as part of his Answer, for that he avers the same to be true, and contains a true and perfect Account of all such Monies, as he or any for him or to his use, since the time aforesaid, have, or hath had, raised or received out of the Estate of the said *J. W.* and of what Monies this Defendant hath since that time paid or disbursed, as he was one of the Executors of the said *J. W.* And this Defendant avers, he hath paid
and

and disbursed the respective Sums mentioned in the said Schedule, as is therein set forth, and farther or other Account or Answer touching the intermeddling in the said Executorship, or of his Receipts or Payments, he this Defendant cannot give than as aforesaid and is herein after set forth. And this Defendant denies he ever took any Gratuity to lend any part of the Monies belonging to the said Testators Estate, either upon bad or good Security, nor did this Defendant ever consent to the lending of any Sum of Mony, part of the said Estate, upon a Security to any person or persons, that he believed or supposed to be otherwise than good. And this Defendant denies that he ever put out any Monies or had any Monies to put out of the said Estate, other than such he hath charged himself with in the said Accompts; but says its true, that some Monies of the said Estate was lent out to the said P.W. deceased, which were taken in the Names of him the said P.W. and J.W. And this Defendant more particularly remembreth, to one J.G. Citizen and Vintner of *London*, two hundred and fifty pounds; and upon a Mortgage of a Lease of a House in the Parish of *St. Buttolph Billingsgate, London*, dated the 10th of *July*, 1671. and one hundred pounds more to the said J.G. upon another Mortgage, dated the 28th of *June*, in the year of our Lord, 1672. of a Lease of three Messuages in *Bethnal Green*, as in and by the said several Mortgages more

at large appear, whereunto this Defendant referreth himself. And this Defendant denies he put out the said several Sums of two hundred and fifty pounds, and one hundred pounds, or any part thereof, but believes that the said *P.W.* paid the said Monies unto the said *J. G.* himself, and that he did the same by the advice and with the consent of *T. M.* one of the Overseers, for that he the said *P.W.* informed this Defendant so much, which made this Defendant more willing to be a Party to the said several Mortgages, which Debts this Defendant doth fear may since become desperate, the said *J. G.* absconding himself, and as this Defendant hath heard, is become insolvent. And that the said *J. G.* hath made several prior Titles to some persons unknown to this Defendant, of the said Premises so mortgaged by him as aforesaid: And this Defendant conceives he is unconcerned therein, for that he was not otherwise concerned in the lending the said Mony to the said *G.* than as aforesaid: And the said *P.W.* who chiefly (if not solely) managed the said *J.W.*'s Estate, lent and paid the said Monies to the said *G.* as aforesaid. And this Defendant denies he ever threatned or intended to take the principal Monies in the Bill, or any part thereof out of the *East-India* Company, as untruly suggested by the said Complainant; but on the contrary is willing to consent to any Order or Decree that this Court shall think fit to make

make, for the barring and hindring as well this Defendant as the other Defendants from meddling with the same. And this Defendant farther saith, That he believeth it to be true, that the said *P. W.* about that time for that purpose mentioned in the Bill, made his last Will and Testament in writing, as by the said Bill is set forth, and thereof made this Defendant and the other Defendants, Mr. *W.* and Mr. *M.* Executors: And this Defendant after the said *P. W.*'s death joyned with them in the probate of the said Will, in the said Prerogative Court, as by the same there remaining, more at large appeareth: And he also saith, that it may be true, That the said *P. W.* dyed possessed and seised of a considerable Personal and Real Estate, but knows not of what value, for that this Defendant never possessed himself of any part thereof, or intermeddled therewith, or in the said Executorship farther than in the joyning in the probate of the said *P. W.*'s Will, as aforesaid. And this Defendant says, That several times the said *P. W.* when he had received Monies, would leave it at this Defendants House, in Bags unsealed, and sometimes, and for the most part sealed up, but what Sums and how often this Defendant cannot remember. And this Defendant farther saith, That the said *P. W.* sent for and received all such Sums from this Defendant, he this Defendant never keeping any Tale or Account of such Monies, but only laid them by sealed or un-

sealed for the said P. as aforesaid, and that the said P. never deposited any Monies in this Defendants hands for any other Trust or for any other Account, than he this Defendant hath hereby set forth, and which the said P. received back from this Defendant in his life-time, and this Defendant denies that he ever, to his remembrance, borrowed any money of the said P. but on the contrary often lent or paid him several Sums of money particularly mentioned in his this Defendants Accounts; and sure this Defendant is, that he was not in any sort indebted to the said P. W. at the time of his death. And this Defendant denies, that he hath in his Hands or Custody any other Writings concerning the said Estates or either of them, other than the said Mortgage made by the said G, which he is ready to produce, as this Honourable Court shall direct. And this Defendant denies all Combination charged in the Bill, either with the other Defendants, or any other person or persons whatsoever, to wrong or injure the Plaintiff, and saith, That if any loss touching *Green's* Mortgage hapned upon the mismanagement of the Estate of the said J. the same was occasioned or hapned so to be by the said P. and not by this Defendant. And the said P. hath, as this Defendant believes, by his Will, and the bequests therein to the Complainants, fully reprized him for all such losses or damages. Without that that any other matter

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or thing in the Complainants said Bill of Complaint contained, material or effectual in the Law, for this Defendant to make Answer unto, and is not herein or hereby traversed or denied, confessed or avoided, is true. All which this Defendant is ready to aver, &c.

A Plea to the Jurisdiction of the Court, the Lands in question in the Complainants Bill being in the County Palatine of Lancaster, as to part of the Bill; and Answer to the other part, in which the Defendant sets forth his Title by Deed of Feoffment, with Livery and Seisin, &c. from the Complainants Father.

THE said Defendant by Protestation not sect. 7.
 confessing or acknowledging any the matters or things in and by the said Bill of Complaint set forth and alledged to be true, saving that the Tenements and Lands with their Appurtenances, mentioned in the said Bill, concerning the Title whereof the said Bill is exhibited into this Honourable Court, are situate and do lye within the Parish of R. in the said County of L. for Plea thereunto saith, That the said County of L. as this Defendant is informed, is, and hath been time out of mind of any one to the contrary, a County Palatine, and that as well the said Tenements, Lands and Premisses, as all other Lands within the said County Palatine, or belonging thereunto, and all Actions and Suits at Common Law, or in Equity, by reason

son of the Premisses, or any parcel thereof, have been or ought to have been impleaded, by all the time aforesaid, and yet are impleadable in the Courts of the said County Palatine, before the Chancellor or Judges there, for the time being, within the said County Palatine, and not elsewhere. And therefore humbly prays the Judgment of this Honourable Court, if this Court will hold Plea upon, and enforce this Defendant to answer to the said Bill exhibited by the Complainant, for the cause aforesaid, wherein the said Defendant doth submit himself to the order and direction of this Honourable Court. And if the Defendant shall by the Order of this Honourable Court be compelled to make any other answer to the said Bill of Complaint then and not otherwise, this Defendant having saved and reserved to himself both now and at all times hereafter, all advantage of Exceptions to the incertainties and insufficiencies in the said Bill of Complaint; for Answer thereunto this Defendant saith, that the Tenements and Lands in the said Bill mentioned, are situate and do lye in the said Parish of R. and County aforesaid. And this Defendant doth confess, That *H. B.* the Complainants Father in the said Bill mentioned, was in his life-time seised of the Tenements, Lands and Premisses of a good Estate of Inheritance in his Demesne, as of Fee, to him and his Heirs, in Fee-simple, as in the the said Bill is set forth; but denies that
the

the said *H. B.* died seised thereof, or that the Premisses after his death did discend to the Complainant as his Heir, or that he ought to enjoy the same, as in the said Bill is alledged; but saith, that the Complainants Father being seised of the said Tenements, Lands and Premisses, in his Demesne, as of Fee, he the said *H. B.* for and in consideration of the Sum of five hundred pounds of good and lawful Mony of *England*, to him in hand paid by this Defendant, by his Deed of Feoffment under his Hand and Seal, bearing date the 10th day of *October*, 1678. duly executed by Livery and Seisin the same day, in the presence of several credible Witnesses, did Grant, Bargain, Sell, Convey and Assure the said Tenements, Lands and Premisses unto this Defendant, and to his Heirs and Assigns for ever. To the only use of the said Defendant, his Heirs and Assigns for evermore, as by the said Deed ready to be produced to this Honourable Court, and to the which for the more certainty this Defendant refers himself, may more fully and at large appear; by virtue whereof the said Defendant, on the said 10th day of *October*, in the year aforesaid, in the life-time of the said Complainant's Father, and many years before his death, was of the said Tenements, Lands and Premisses seised in his demesne, as of Fee, and the Defendant and his Assigns have ever since hitherto continued seised thereof, and received the Rents, Issues and Profits thereof

of to their own use, as this Defendant humbly conceives it was lawful for him and them to do, by reason whereof, and by virtue of the said Deed of Feoffment, wherein the same are specially granted unto this Defendant. This Defendant doth acknowledge he hath in his custody several Deeds, Evidences and Writings concerning the Premises, which do of right belong to him, for the maintaining of his Title thereunto. And for that purpose he humbly conceives they ought to remain in his custody, and not to be brought into this Honourable Court, unless the Complainant had a good Title thereunto, nevertheless the said Defendant is willing to submit to what Order this Honourable Court shall think fit to make therein. And the said Defendant doth utterly deny, That without pretence of Title he entred into the said Messuage and Premises by abatement, after the death of the Complainants Father, or that he wrongfully detained the Possession thereof from the Complainant, as by the said Bill is falsely alledged. And this Defendant confesseth he doth refuse (as he humbly conceives he lawfully may) to Account with the Complainant for the mean Profits of the Premises, or to deliver to him the Writings, Deeds and Evidences, as aforesaid: And doth deny and traverse without that, that, &c.

The Defendant pleads a Stated Account and an Acquittance in full in Bar to the Complainants Bill.

BY Protestation, &c. not confessing, &c. Sec. 8.
 As to such part of the Complainants Bill as prays an Account of and concerning any matters and things done and transacted between the Complainant and this Defendant, at any time before and unto the first day of *April*, which was in the year of our Lord, 1686. And as to all such other part of the said Bill as is not herein after answered unto, this Defendant for Plea saith, That upon the said 1st day of *April*, 1686. the Complainant and this Defendant did make up, state and settle an Account in Writing then delivered to the Complainant, of all Sums of Money this Defendant had before that time by the order and direction and for the use of the said Complainant received, and of all matters and things thereunto relating, or at any time before the said first day of *April*, 1686. being or depending between the Complainant and this Defendant; and the Complainant after a strict and serious examination of the said Account and every particular therein contained, did approve and allow of the said Account, and did actually receive of this Defendant the Sum of 233 *l.* 17 *s.* 9 *d.* being the Ballance of the said Account; and thereupon the same 1st day of *April*, 1686.
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aforesaid, the Complainant did give to this Defendant a Receipt or Acquittance for the same, under his Hand, in full of all Accounts, (*viz.* recite the Acquittance) As in and by the said Acquittance under the Hand of the Complainant, ready to be produced to this Honourable Court may appear. And this Defendant doth plead the said Account settled and stated, the payment of the said Monies, and the said Receipt or Acquittance, in bar to such part of the said Bill as demands an Account from this Defendant for any matters or thing, in the Bill mentioned, on or before the said 1st day of *April*, 1686. And humbly demands the Judgment of this Honourable Court, whether he shall make any other or farther Answer thereunto.

An Outlawry pleaded in Bar to the Complainants Bill.

Sect. 10.

TH E said Defendant by protestation, &c. And for that this Defendant conceiveth, That the Complainant hath Exhibited his Bill against this Defendant vexatiously, rather to put this Defendant to Charge and Expences, than for any just and equitable cause: For Plea thereunto saith, That the said Complainant stands Outlawed at the Suit of *T. B.* in a Plea of Debt, as appears by a Writ of *Capias Utlagatum* under Seal, hereunto annexed. And this

this Defendant doth and will aver and maintain, That the said Outlawry remains in its full force Unreversed, and not annihilated. And that the said Complainant C. R. so Outlawed, and the said C. R. the now Complainant, is one and the same Person, and not another and divers; therefore this Defendant doth humbly crave the Judgment of this Honourable Court, whether he this Defendant shall be compelled to Answer the said Bill of Complaint, until the said Complainant hath reversed the said Outlawry, and become a person of ability and capable to Exhibit any such Bill of Complaint against this Defendant, and in the mean time prays to be hence dismissed with his reasonable Costs and Charges in this behalf wrongfully, &c.

The Defendant pleads a Release in Bar to the Complainants Bill.

BY Protestation, &c. By way of Plea Sect. 11.
saith, That since the Complainants exhibiting the Bill of Complaint into this Honourable Court, that is to say, the 25th day of October, 1689. the Complainant by a Release by him signed, sealed and delivered, bearing date the 16th day of November, in the said year, 1689. and ready to be produced to this Honourable Court, as this Honourable Court shall Award, did for himself, his Executors and Administrators,

strators, remise, release, and for ever quit claim unto this Defendant his Executors and Administrators, all and all manner of Actions, Cause and Causes of Action, Suits, Debts, Dues, Accounts, Reckonings, Sum and Sums of Mony, Bonds, Bills, Specialties, Judgments, Executions, Trespasses, Quarrels, Controversies and Demands whatsoever, which the Complainant, his Executors or Administrators then had, or hereafter might or could have, challenge, claim or demand against this Defendant, his Executors or Administrators, for or by reason or means of any matter, cause or thing whatsoever, from the beginning of the World until the day of the date of the said Release, for which cause this Defendant humbly demands the Judgment of this Honourable Court, whether he this Defendant shall be compelled to make any farther or other Answer to the Complainants Bill, &c.

The Defendant pleads the Statute of Limitations for Goods sold and delivered.

Sect. 12.

THIS Defendant now and at all times hereafter, saving to himself, &c. For Plea hereunto saith, That what Goods, Wares and Merchandises were by the Complainant sold and delivered to the Defendant, mentioned in the Complainants said Bill, were sold and delivered above 6 years before this Defendant was served with any

any Proceſs of this Court to Answer the ſaid Bill. And that if the Complainant had any cauſe of Action againſt the Defendant, for or concerning any the matters in the ſaid Bill mentioned, which this Defendant doth in no ſort admit, the ſame did accrew or ariſe above 6 years before the filing of the ſaid Bill, or ſerving this Defendant with Proceſs; nor did this Defendant at any time within 6 years promiſe or agree to come to any Account or pay the Complainant any Monies for any Goods, Wares or Merchandizes, pretended to be ſold and delivered by the Complainant to this Defendant, or by him this Defendant had or received, or for any of the Complainants pretended demands, in the Bill mentioned. And therefore this Defendant doth plead the Act of Parliament, made in the 21th year of the Reign of King *James* the Firſt. And prays the benefit of the ſaid Act of Parliament for Limitation of Actions. All which matters this Defendant pleadeth in Bar of the Complainants ſaid Bill, and of the Complainants pretended demands by his Bill aforeſaid, for which he ſeeks to be relieved, and in Bar of the ſaid Bill, and this Defendant prays to be hence diſmiſſed with his reaſonable Coſts and Charges in this behalf wrongfully ſuſtained.

The Defendant pleads a former Bill depending for the same matters, in bar to the Complainants Bill.

Sect. 13.

THIS Defendant by protestation, not confessing or acknowledging all or any of the matters in the Complainants said Bill contained to be true, in such manner and form as the same are therein declared and set forth; for Plea thereunto saith, That the said Complainant in *Trinity* Term, which was in the year of our Lord God, 1687. did Exhibit his Bill into this Honourable Court, to have an Account of Mony raised, had and received out of the Rents, Issues and Profits of the Premisses, in the Bill mentioned, by his Guardian, during the Minority of the Complainant, against this Defendant, in the same manner and form, and for the same matters, and to the same effect, as he doth now by this his Bill. To which first Bill this Defendant did put in his Answer, and the Complainant thereunto replied, and Witnesses were Examined on both sides and their Depositions duly published: And the said former Bill is still depending in this Honourable Court, and the said Cause undetermined. And therefore this Defendant doth plead the said former Bill Answer and Proceedings, in Bar to the said Complainants now Bill: And humbly prays the Judgment of this Court, whether he shall

shall be compelled to make any farther or other Answer thereunto.

The Defendant Answers to part, pleads a Purchase for a valuable Consideration to other part of the Matters in the Bill, and disclaims as to the Residue.

THIS Defendant saving to himself, &c. Sect. 14.
for Answer saith, it may be true, that
E. B. in the Bill named, did lend such a
Sum of Mony to W. B. in his life-time in
the Bill named, and for security of the
repayment thereof, had such Deed by way
of Mortgage granted to him, as in the
said Bill is set forth, and that the Com-
plainant is well intituled to the benefit
thereof, but of his own knowledge know-
eth not of such Mortgage made by the
said W. B. in his life-time, and denyeth all
Combination and Confederacy, &c. And
as to the residue of the Bill of Complaint
this Defendant by protestation not confes-
sing, &c. As to the Messuage or Tene-
ment in the said Bill mentioned, situate
and being in the Parish of M. with the
Lands and Appurtenances thereunto be-
longing, in the Bill of Complaint mentio-
ned to be in the possession of this Defen-
dant or his Assigns; for Plea saith, That
he this Defendant is a Purchaser of the
said Tenement with the Appurtenances
and Premisses, for a valuable Consideration
in Mony, really and *bona fide* paid to the
said

Pleas and Answers.

said *W. B.* in his life-time, without the notice of the Complainants pretended Title in the Bill mentioned; and that the said *W. B.* hath by good and sufficient Conveyances in the Law, as this Defendant is advised, conveyed the same to this Defendant and his Heirs, absolutely, without any manner of Condition, Proviso or Power of Redemption whatsoever. All which matters and things he this Defendant is ready to aver and prove, as this Honourable Court shall Award, and humbly pleads the same in bar to so much of the said Complainants said Bill of Complaint, as this Defendant hath not herein before answered. And humbly prays the Judgment of this Honourable Court, whether he ought to set forth the date and contents of his Deed of purchase, or the effects thereof, whereby to enable the Complainant to inspect this Defendants Title to the purchased Premisses. And as to all other the Lands and Tenements in the Complainants said Bill of Complaint mentioned, other than what he this Defendant hath pleaded unto as aforesaid, he this Defendant disclaimeth all Right and Title thereunto, and knows nothing thereof, without that, that, &c.

The several Answer of Daniel Witherly Defendant, to the Bill of Complaint of the Right Honourable George Lord Jefferies, Baron of Wem, Complainant.

THIS Defendant craveth favour to make known some proceedings in this Cause, which, as this Defendant conceiveth, are something materially relating thereunto. He saith, That he this Defendant upon consideration of the said Complainants Bill, and finding that he this Defendant could not make a perfect Answer thereunto, within the time limited for so doing thereof, by the Rules of the Court; thereupon this Defendant did on *Wednesday* the 24th of *February* last, Petition the Honourable Sir *John Trevor* Kt. Master of the Rolls, thereby suggesting, amongst other things, That the Writings or Counterparts therein mentioned, being in the Country, without the sight whereof this Defendant, who little expected this Suit, could make no perfect Answer to the said Bill, as by Affidavit thereunto annexed, might appear. And therefore this Defendant by the said Petition, prayed a Commission to Answer in the Country, as in such cases was usual; and both sides attending his Honour by direction therein, his Honour did declare or so Order, That he would not grant or permit this Defendant to have any Commission to take his Answer in the

Sec. 15.

Vide Bill for Relief against a Statute or Recognizance. f. 561.

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Country,

Country, but this Defendant must make such Answer as he could within the time limited, as aforesaid; wherefore, rather than this Defendant would incur his Lordships the Complainants displeasure, he this Defendant resolved to make such Answer as he could upon his remembrance, altho' he must not have the help and perusal of his Writings, for the more perfect answering the said Bill, as aforesaid. This Defendant therefore saving to himself now and at all times hereafter, all Advantage and benefit of Exception, to the incertainties, imperfections and insufficiencies of his Lordships the Complainants Bill, for Answer unto so much thereof as this Defendant conceives he is concerned to make Answer unto, He saith and doth believe it to be true, That this Defendant was, as he supposed, seised in Fee simple, or of some other good Estate of Inheritance, subject to a Mortgage before made unto *Henry Polexfen* of the Inner Temple, *London*, Esq; of and in the Barony of *Wem* in the County of *Salop*, with its Rights, Members and Appurtenances, and of the Manors of *Wem* and *Loppington* and of the Advowson, Donation and Right of Patronage of the Church of *Wem* aforesaid, and so had been Lord of the said Barony and Manor for very near twenty years together, and doth very well remember that he this Defendant about the time mentioned in his Lordships the Complainants said Bill, viz. upon or very near the 24th day of *October*, 1684. did wait upon
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and apply himself unto his Lordship the Complainant, and did then acquaint his Lordship, That although he the said Complainant had been of Council for this Defendants Tenants of the said Manor against this Defendant, yet nevertheless he came then to propose to his Lordship, and did then offer him the Sale of his this Defendants said Barony, Manors, Advowson and Premises which this Defendant then believed might be a kindness to his Lordship as well as convenient for this Defendant, because this Defendant observed his Lordship to be much in the Kings Majesties Favour, so as his Majesty might in short time deservedly confer farther Honour upon his Lordship. And that his Lordship the Complainant might in many particulars help this Defendant to his Right and do him kindness, and thereupon this Defendant believeth he did use some Arguments or Reasons to induce his Lordship the Complainant to buy the same, as namely, That it was (as this Defendant had been informed) as Ancient a Barony or Seigniorie as most were in the North-west part of *England*, and that it had never been sold since the Conquest, until this Defendant bought it, and was of a very large extent, consisting of thirteen or fourteen Townships, and almost twenty Miles compass, as this Defendant had been informed, and the chief Town thereof was an Ancient Market-Town, and that it was within ten or twelve Miles of the place where his Lord-

ship was born, and his nearest Relations did then dwell, as this Defendant was informed, with which Reasons or Arguments, and some other Proposals, his Lordship the Complainant seemed so well pleased, that he returned this Defendant his thanks for this Defendants Civility therein, and said whether he did Purchase it or not, he took this Defendants offer very kindly, and would do this Defendant any kindness or favour in his Power, or words to that effect, and then desired this Defendant to bring him a Particular thereof so soon as he could, and his Lordship would treat with him concerning the Purchase of the same. And this Defendant doth also believe, That on or about the 27th day of the said Month of *October*, 1684. this Defendant did bring unto his Lordship, the Complainant, a Particular of the said Barony or Manors, or so much thereof as this Defendant did intend to sell, a Copy of which particulars, as this Defendant remembers is here inserted, *viz.* A Particular of the Barony of *Wem*, and of the Manors of *Wem* and *Loppington*, wherein there are thirteen or fourteen Townships, *viz.* The Township or Borough of *Wem*, being an ancient Market Town, and new built, by reason that it was lately burnt, the Township of *Dyches*, *Low*, *Norton*, *New-Town*, *Woorverly*, *Northwood*, *Edstaston*, *Cotton*, *Steel*, *Afson*, *Tilly*, *Sleap* and *Loppington*; the Rents of the Freeholders within the said Manors (most or all are to pay Herfiots and Relief on death

death of Tenants, as appears by the Records) are five pounds fourteen shillings, *per Annum*, at twenty years Purchase, one hundred and fourteen pounds. *Memorandum*, That before the Court of Wards was put down, there were several persons of Quality that held their Manors and Lands of the Barony of *Wem*, by Knights Service, &c. and were Wards to the Lords of *Wem*. The Copy-hold Rents of the Said Manors, Fineable at Will, are fifty three pounds, five shillings and eight pence, *per annum*, much of it is not above three pence in the pound, some four pence in the pound, and very little above six pence in the pound, at twenty years purchase, one thousand threescore and five pounds, thirteen shillings and four pence. The Improved yearly value of all the said Copy-hold Messuages and Lands, whose Fines are Arbitrary and at Will, upon every death and alienation of Tenants and Heriots are payable upon death and alienation of Tenants or under-Tenants, and others that dye upon those Lands, as by the Records appears, are two thousand pounds *per annum*, at four year Purchase, eight thousand pounds. The yearly increase of some Copy-hold Rents by Agreement lately made with them, in lieu of their Arbitrary Fines, for about one hundred and thirty pounds *per annum*. Copy-hold Lands over and above one hundred pounds in money paid, is twenty six pounds, ten shillings four pence, *per annum*, to be paid over and above all pay-

payments whatsoever, at twenty years Purchase, five hundred and thirty pounds, six shillings and eight pence. The Demefne Lands or Rents of Lands in hand, with some old Cottage Rents, whose Lands are only valued in all the Townships within both the said Manors, are fifty five pounds *per annum*, at eighteen years purchase, much of it being improveable, nine hundred, ninety nine pounds. The perpetual Advowson of the Rectory or Parsonage of *Wem*, whereupon there is a large half Timbered House, called the *Hall*, with great Barns, &c. Orchards, Gardens, and Gleebe Lands, above thirty pounds *per annum*, which with the Tythes are valued *communibus annis* at five hundred pounds *per annum*, at three years Purchase fifteen hundred pounds. The Timber in *Cotton Wood*, above seven hundred Trees, most of it good sound Timber, valued at four hundred pounds. *Memorandum*, There is a great Market every *Thursday* of Corn, and at usual times Sheep, &c. the Toll of the Corn supposed to be well worth forty pounds *per annum*, not valued, because of the discontinuance of taking Toll, there must be a new Grant, and the Market House new Built, which was burnt in the late fire; and there are three Fairs yearly, the Toll whereof is about eight pounds *per annum*, which indeed is spent with entertainment of the Officers, and the Lord of the Manors Friends, who attend the walking of the Fairs. The profits of *Wem Moss*, getting Peat

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Peat and Fire Wood, worth yearly fifty shillings. The like in *Cotton-Wood*, worth yearly twenty shillings. *Memorandum*, There are great Royalties of Fishing, Fowling, Waists, Estrays, Felons Goods, and Commons of a large extent. All which amount unto Twelve Thousand, Six Hundred, Sixty Three Pounds, or thereabouts. And soon after this Defendant waiting upon his Lordship to know his pleasure therein, he the said Complainant did refer this Defendant to one Mr. *Edward Jennings*, whom (as his Lordship told this Defendant) he did imploy about some of his private Affairs, and with whom this Defendant was to treat, and that the said *Edward Jennings* should from time to time receive Instructions from his Lordship the Complainant, and know his mind concerning the Purchase of the Premises; but the said Mr. *Edward Jennings* (as this Defendant was sensible) did delay him until about the end of *Michaelmas* Term, one thousand, six hundred, eighty four, in which time this Defendant doth believe he had been prevented of a Purchaser that (as this Defendant was informed) would have made a Purchase of the Premises: And thereupon this Defendant did apply himself again to his Lordship the Complainant, and did acquaint him of the many delays that had been put upon this Defendant by the said Mr. *Jennings*, and that this Defendant did not believe he should have any fair end with the said Mr. *Jennings*,

nings, because the said Mr. *Jennings* did, as this Defendant hath heard, make use of one *George Chambers*, so called, who was a professed Adversary of this Defendant, as he had reason to believe, and also of some other Persons of his this Defendants Tenants of the said Manors, who had for many years before that time prosecuted tedious Suits against this Defendant, as he was advised, on pretence of getting twenty several Customs, or thereabouts confirmed, both in this Court, and in your Majesties Court of *Exchequer*, from whom this Defendant, for the Reasons aforesaid, could not expect any just or fair dealings, and therefore desired his Lordship the Complainant, That he would resolve on some other course, or give this Defendant leave to treat with some other person, whom he supposed might probably be, and had reason to believe would be a Purchaser of the Premises: And because this Defendant was not only ingaged for Monies borrowed on his own account, but also for several great Sums of Money borrowed for his Son, for payment whereof this Defendant must acknowledge he was threatned to be Arrested, and so might then acquaint the Complainant: Thereupon his Lordship the Complainant, did appoint a meeting at his Chamber, where one *Edward Kinaston* Esq; was present, and this Defendant, and also the said *Edward Jennings*, at which time his Lordship the Complainant did frankly declare his Resoluti-

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ons and Intentions to Purchase the Premises, and that his Lordship would pay to this Defendant so much Money at present as he could be satisfied by his Friends or Agents information the Premises by their Estimate would amount unto, which being afterwards cast up, did come to the Sum of seven thousand, six hundred pounds or thereabouts, which was agreed to be paid down, and as this Defendant remembers was very justly paid by the Plaintiff upon Sealing the Conveyances of the Premises as herein after is mentioned, in part of the said purchase Money. And this Defendant doth acknowledge and believe it to be true, That in regard his Lordship the Complainant could not (as was then alledged) receive satisfaction of the true value of the Premises intended to be sold, It was agreed, That one thousand pounds of the said seven thousand six hundred pounds should be the price of the said Advowson, although this Defendant was informed, and so did then acquaint his Lordship the Complainant, That the perpetual Advowson of the said Parsonage was really worth, and would have been sold, as this Defendant was informed, for fifteen hundred pounds, the same being commonly reputed five hundred pounds *per annum*, and his Lordship should leave it out of the Particular if he pleased; but his Lordship the Complainant then declared to this Defendants best remembrance, That he would not buy the said Barony, Manors and Pre-

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Premises, except he might buy the said Advowson also. And this Defendant being for the reasons herein mentioned, willing his Lordship the Complainant should purchase the Premises, or so much thereof as this Defendant was resolved to sell, this Defendant did agree to accept of one thousand pounds, part of the said seven thousand six hundred pounds, for the Purchase of the said Advowson, as aforesaid. And this Defendant doth believe it was also part of the Agreement, That the six thousand six hundred pounds, remaining of the seven thousand six hundred pounds in the Bill mentioned, should go towards payment of the rest of the Purchase-Mony, and that twenty years value should be the rate and price of the old Rents, as well chief Rents paid by the free Tenants as the Rents of the Copy-holders of Inheritance, as they should be ascertained by the persons to be named for that purpose, and that the Rate and Price for the said Barony and Manor, and the casual Fines and Profits of Courts and Priviledges by the Deed conveyed (except for the Timber-Trees in *Cotton Wood*) and for the Cottages and Lands not Copy-holds, but in possession of this Defendant or his under-Tenants for years, or at will, should be three years value of the Copy-hold Lands, parcels of the said Manors, to be granted and conveyed as they are or were worth in possession, as the same should be ascertained by the said Persons, and the rate and price that should be paid for the said Timber Trees in *Cot-*

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ton-wood, and the Cottages and Lands, not being Copy-hold, but in possession of this Defendant or his under-Tenants, for years, or at will, should be so much as should upon a true value be set down by the said persons for that purpose to be named. And that the said *Edward Kynaston* of *Oatly*, Esq; was named for his Lordship the Complainant, and *William Adams* of *Longdon*, Esq; was named by this Defendant, upon their viewing, surveying and informing themselves of and in the Premises, to compute and ascertain as well what the said yearly chief Rents as the said Copy-hold Rents are yearly, and what they amount unto at twenty years Purchase, and what the true and real annual value of the said Copy-holds are in possession, and what Sum they amount unto at three years value; and what the said Timber Trees in *Cotton-wood*, and the Cottages and Lands not being Copy-hold, but in possession of this Defendant, or his under-Tenants, for years or at will, are really worth, and to set down in Writing, under their Hands and Seals, and the Sum of Mony to which they shall amount, and deliver to every of the Parties to the said Deed, or his or their Order, one of the said Writings, so sealed and subscribed: And this Defendant believes, That it was also agreed, That the Complainant his Lordship should enter into a Statute of three thousand pounds for the securing the residue of the said Purchase-Mony, which
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this Defendant did then and still doth believe would amount to a considerable Sum of Mony, if the true and real value might be taken of the Premisses sold, by persons that would take a real care and pains therein. And this Defendant doth confess that the said *Henry Pollexfen*, who had a Mortgage of the Premisses, as aforesaid, together with this Defendant, by their Deed dated on or about the twenty third day of *December*, one thousand six hundred eighty four, made or mentioned to be made, between the said *Henry Pollexfen* and this Defendant of the first part, the said Lord *Jefferies*, by the name of the Right Honourable Sir *George Jefferies*, Knight and Baronet, Lord Chief Justice of *England*, and one of his Majesties most Honourable Privy Council of the second part; and the Reverend *James Jefferies* Doctor of Divinity, one of the Prebends of the Church of *Canterbury*, and *Edward Jennings* of the *Inner Temple, London*, Esq; of the third part, reciting, That the Right Honourable *Henry* Duke of *Norfolk* and others, by their Indenture, bearing date on or about the one and twentieth day of *November*, in the thirteenth year of his late Majesties Reign, for the Consideration therein mentioned, did demise and grant unto one *John Arthur* and *John Hanson*, all that the Barony of *Wem*, and all those the Manors and Lordships of *Wem* and *Loppington*, and the Advowson of the Church of *Wem*, and all that Farm called *Trench Farm* in
Tilly,

Tilly, and Trench in the Parish of Wem, then or late in the possession of John Sherrot or his Assigns, with the Appurtenances, To hold from the day next before the day of the date, for one thousand years, reciting also farther, as therein is recited. He the said Henry Pollexfen for the Consideration therein mentioned, did bargain, sell, assign and set over by the appointment of the said Sir George Jefferies, and this Defendant did grant and confirm to the said James Jefferies and Edward Jennings, their Executors and Assigns, all the aforesaid Barony, Manors, Messuages, Lands and Tenements, Advowson and Hereditaments, and all and singular the Premises, in and by the said recited Deed, to the said John Arthur and John Hanson granted with their and every of their Appurtenances, except the Farm called the Trench Farm, with all the Lands and Meadows thereunto belonging, late in the Occupation of William Viscount Stafford and John Sherrot, or one of them, their under-Tenants or Assigns; And excepting the Messuage and Lands, called Bakers Tenement in Ashton and Tilly, or one of them, and one House in Ashton, sometime in the possession of John Bold, and belonging to William Woolfe, deceased, and now in the possession of Elizabeth Trevor, and the Tofts, Ground and Soil, and the Messuage thereupon erected, and Garden thereunto belonging, in Wem, sometimes in the Occupation of William Welsh, his under-Tenants or Assigns,
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Pleas and Answers.

and lately purchased by this Defendant of *Roger Cook* and others : And all the Estate and Interest of the said *Henry Pollexfen* and this Defendant, in and to the same. To have and to hold the said Barony, Messuages, Lands, Tenements, Advowson and Hereditaments, with their and every of their Appurtenances, in and by the said Deed assigned and set over unto the said *James Jefferies* and *Edward Jennings*, their Executors and Assigns, from thenceforth, for all the remainder of the term of one thousand years yet to come (except before excepted) without impeachment of Waste, with Covenants against Incumbrances; Except one Deed of Assignment, made by the said *Henry Pollexfen*, and dated the twentieth day of *December*, one thousand six hundred eighty four, unto this Defendant, his Executors and Assigns, and the Lands therein mentioned; as by the said several Deeds, relation being thereunto had, to which this Defendant for his more certainty in the Premisses, doth refer himself, when produced may appear. And this Defendant for farther Answer saith, That he this Defendant did by Indentures of Lease and Release, bearing date on or about the two and twentieth day of *December*, one thousand six hundred eighty four, made between this Defendant of the one part, and his Lordship the now Complainant, by the name of *Sir George Jefferies* Knight and Baronet, Lord Chief Justice of *England*, and one of his Majesties most Honourable Privy Counsel of the other part. This Defendant

Defendant (as he believeth) for the Consideration of the said Sum of seven thousand six hundred pounds; four thousand five hundred pounds whereof, or thereabouts, was paid to the said *Henry Pollexfen*, or to his use, for his Interest in the Premises, and that the remainder of the said Sum of seven thousand six hundred pounds, this Defendant doth acknowledge he doth believe to be justly and truly paid to this Defendant and his Order, by his Lordship delivering or causing to be delivered several Bills for the same to the said Mr. *Fennings*, to be paid and delivered to this Defendant and to other persons by this Defendants direction and for his use. And in consideration of a farther Sum, secured by the said Statute, to be paid by his Lordship, this Defendant doth verily believe that he did grant, bargain, sell, release and confirm unto his Lordship the Complainant and his Heirs, all that the said Barony of *Wem* in the County of *Salop*, and the said Manor or Lordship of *Wem* and *Loppington*, with their and every of their Rights, Members and Appurtenances, and the Advowson and right of Parsonage of the Church of *Wem*, and all Messuages and Cottages, Lands, Woods, Under Woods and Trees, Commons, Rents, Royalties, Profits and Perquisites whatsoever, to the said Barony, Manors, Lordships, Advowson and Premises thereto belonging or in any wise appertaining, that were heretofore Purchased by this Defendant

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from *Henry Howard* of *Norfolk*, Esq; *Sir Henry Playters*, *Sir Willian Turner*, *Arthur Onslow* and *John Tasburg* (except as therein is excepted) And all Deeds, Court Rolls, Transcripts and Miniments whatsoever, concerning the Premisses only, or part thereof, that then were in this Defendants possession and custody, and true Copies of all other Writings that concern the Premisses, with other things, To have and to hold the Premisses (except before excepted) unto his Lordship the said Complainant, his Heirs and Assigns for ever, with Covenants against all Incumbrances done by this Defendant, or any claiming under him; Except the Estates granted by Copy of Court Roll, and the Assignment of a Lease heretofore made by *Henry*, late Duke of *Norfolk* and others, to *John Arthur* and *John Hanson*, dated on or about the one and twentieth day of *November*, in the thirteenth year of the Reign of King *Charles* the second, and the Assignment made by the said *Henry Pollexfen* of *Trench Farm*, and other Lands therein mentioned, as aforesaid, being no part of the Plaintiffs Purchase, as by the said Deeds, and other the Conveyances before mentioned, to which for more certainty in all the particulars, for the reasons aforesaid, this Defendant doth pray liberty to refer himself, may more at large, when produced, appear. And this Defendant doth also believe, That by one other Indenture, dated on or about the same three and twentieth

tieth day of *December*, one thousand six hundred eighty four, made or mentioned to be made between his Lordship the Complainant, by the Title and Name of the Right Honourable Sir *George Jefferies* Knight and Baronet, Lord Chief Justice of *England*, and one of his Majesties most Honourable Privy Council of the one part, and this Defendant of the other part, reciting, That this Defendant had sold, and by the said Conveyances had conveyed unto his Lordship the Complainant and his Heirs, the said Barony, Mannors, Advowson and Premisses (except as therein is excepted) and that his Lordship the Complainant had paid and satisfied to this Defendant or his order, the Sum of seven thousand six hundred pounds, towards the Purchase thereof, the receipt whereof in manner as is before expressed, this Defendant doth acknowledge. And whereas by reason his Lordship the Complainant and this Defendant being at the same time remote from the said Barony, could not satisfy each other, in the true and real values of the quantities of the Lands and Rents purchased, but had agreed that one thousand pounds, parcel of the said seven thousand six hundred pounds should be the price of the said Advowson, and that six thousand six hundred pounds, residue of the Money paid, should go towards payment of the rest of the said Purchase, and that twenty years value should be the rate and price as well of the Free Rents, as the

the Rents of the Copy-holders of the said Manors, or either of them, as they should be ascertained by the persons to that purpose named. And that the rate and price that should be paid for the said Barony and Manors, and the casual Fines, profits of Courts, and all other Profits, Benefits and Priviledges by the said Deeds Conveyed (except for the Timber Trees, in *Cotton-wood*, and for the Cottages and Lands not Copy-hold, but in the Possession of this Defendant and his under Tenants for years or at will) should be three years value of the Copy-hold Lands, parcel of the said Manors, or either of them, by the said Deed granted, as they were worth in possession, as the same should be ascertained by the persons therein named, and that the rate and price that should be paid for the said Timber Trees in *Cotton-wood*, and the Cottages and Lands not being Copy-hold, but in possession of this Defendant, or his under Tenants, for years or at will by the said Deed granted, should be so much as should be by the said persons for that purpose named, set down and appointed to be paid; Reciting also, That his Lordship the Complainant had named *Edward Kynaston* of *Oatley* in the County of *Salop*, Esq; for him, and this Defendant named *William Adams* of *Longton*, Esq; for him, to joyn with the said *Edward Kynaston*, on their viewing, surveying and informing themselves of and in the Premisses, to compute and ascertain what the said yearly

yearly chief or Free Rents, and the Copyhold Rents were yearly, and what Sum of Mony they amounted unto, at the rate of twenty years Purchase, and what the true and real annual value of the said Copy-holds were in possession, and what they amounted unto at three years value computed, and what the said Timber Trees in *Cotton-wood*, and the said Cottages and Lands not being Copy-hold, but in possession of this Defendant or his under Tenants for years or at will, were really worth, and to be set down in writing, under their Hands and Seals, such their rates, prises, valuations, and the Sums of Mony to which they should amount, and deliver to every of the Parties to the said Indenture, or his or their Order, one of the said Writings so sealed and subscribed; And also reciting, That his Lordship had entred into a Statute to him this Defendant in the penal Sum of three thousand pounds. It was also by the said Indenture declared, That the said Statute was given upon condition, That if the said *Edward Kynaston* and *William Adams* should by such Writing under their Hands and Seals, value, set and appoint the Sum of Mony to be paid to his Lordship, his Executors or Administrators, to be above the Sum of six thousand six hundred pounds, and his Lordship the Complainant, his Executors or Administrators should pay the same to this Defendant his Executors or Administrators in the *Inner Temple Hall*, *London*,
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within a Month after such Writing, so sealed, and subscribed, to him or his order delivered, or if by such their writing signed and sealed the valuation and Sum to be paid should be thereby computed to be less than 6600*l.* then the said Statute and Recognizance to be void and of none effect. And this Defendant doth believe, That he did Covenant, That if by such Writing, so signed and sealed, the valuation Sum to be paid should be thereby computed to be less than six thousand six hundred pounds, that then he this Defendant would within a Month after such Writing sealed and delivered to him, pay to his Lordship so much Mony as the valuation or computation should fall short of the said Sum of six thousand six hundred pounds. And this Defendant farther saith, That his Lordship the said Complainant in and by the said Deed did (as this Defendant believeth) farther Covenant, Grant and Agree to and with this Defendant, That his Lordship the said Complainant his Heirs and Assigns, and all and every person for him intrusted, should and would permit and suffer this Defendant, his Executors and Administrators, to have, take and receive to his own use, benefit and behoof, all Fines and Sums of Mony that by reason of the death of any the Copy-hold Tenants of the said Manors, which before the day of the date of the said last recited Indenture, have been surrendred, into the Lords hands, and the Fines thereof not yet set, but upon or before or after the admittance of the Heir and Alienee, shall

shall be set and become payable, and in default of payment to sue or prosecute, or make entries for Forfeitures, for or in the name and right of his Lordship the said Complainant or his Trustees, for the recovery thereof, but at his own costs and charges, provided that this Defendant should and did at all times save harmless and indemnified his said Lordship the Complainant and his Trustees, his and their Heirs, Executors and Administrators, from all costs and charges that shall happen, for or by reason of any such Suit or prosecution in Law or Equity, in or about the same, which he this Defendant for himself, his Executors and Administrators did Covenant accordingly to do, as by the said last recited Indenture, to which, for more certainty in all the Particulars, for the reasons aforesaid, this Defendant referreth himself, more at large, when produced, may appear. And this Defendant farther saith, That he doth believe the said *Edward Kynaston* and *William Adams* were informed of the contents of the last recited Indenture, and of the Reference thereby to them made and directed, for the valuation of the Premises. And this Defendant doth believe the said *Mr. Kynaston* and *Mr. Adams*, at the Summer Assizes for *Salop* in *August* last, did appoint to meet for that purpose, on or about the first day of *September* last, to consider of the Premises to them referred, and believes they did meet accordingly, but this Defendant doth not believe

believe that the saaid Mr. *Kynaston* and Mr. *Adams* did according to the power to them given, or according to the direction or intention of the said Deed, at the request of his Lordship the Complainant, or of this Defendant, view, survey and inform themselves of the true and real values of the said Copy-hold Lands and Premisses in either of the said Manors, or in such manner as by the said Deed was directed, neither did they, to this Defendants knowledge or belief, view or survey any more of the Copy-hold Lands of either of the said Manors, or any other Lands, part of the said Manors, or either of them, except the Lands belonging to one Copy-hold lying in *Horton*, then in the possession of the Widow *Tyler*, or her Assigns, or inform themselves otherwise, than by some Copy of a pretended ancient Survey, produced as this Defendant believes and was informed by the said *George Chambers*, although this Defendant had produced and shewed to the said Mr. *Kynaston* and Mr. *Adams*, or one of them, a supposed Copy of an ancient Survey, wherein there were several Lands and Tenements, part of the said Manors omitted, and also a particular of part of the said Manors, upon which this Defendant did purchase the said Manors and Lands, in which particular also, there were several Lands and Tenements omitted, as this Defendant afterwards did find, and as this Defendant did hear that they the said Referrees intended to have taken a view of

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most or all of the said Copy-hold Lands and Tenements, and other the Lands and Tenements sold by this Defendant, as aforesaid, before the said first day of September, but were hindred or diverted some time before, by some publick, as well as their own private concerns, the said Mr. *Kynaston*, he being chosen by the County of *Salop* Knight of the Shire to serve for the said County in Parliament; and this Defendant believeth the said Mr. *Kynaston* did accordingly attend that Service in Parliament until the month of *July* following, when the same was prorogued or adjourned. And the said Mr. *Adams* having not only some business of his own private concerns, but also some dependency or employment, by the Right Honourable the Lord *Cholmondeley*, in the County of *Chester*, in or about his Estate, so that they the said Referrees did not, as this Defendant remembers, meet to act any thing in the said Reference to them made, until about the first day of *September* last. And this Defendant believeth, That the said Mr. *Adams* was prevailed with to come to *Wem* and other places, three or four several times, upon consultation with the said Mr. *Kynaston*, but could not or did not stay so long as to make any view or survey of the Premises to them referred, or take or make a true value thereof, as this Defendant hopeth to prove, because that he the said Mr. *Adams* (as this Defendant was informed) did expect the Lord *Cholmondeley* his

his coming from *London* to his House in *Cheshire*, so that the said Mr. *Adams* could not, as he then alledged to this Defendant, be well absent (until his Lordships return home) from attending his Lordship and his Affairs, and therefore (as the said Mr. *Adams* did inform this Defendant) that Mr. *Kynaston* proposed to put a general value of eleven shillings the Acre upon the Copy-hold Lands, which this Defendant conceived to be a very unequal way, and therefore he this Defendant did earnestly desire the said Mr. *Kynaston* and Mr. *Adams* to make a personal view of all the said Copy-hold Lands, and other Lands and Tenements within the said Manors, which this Defendant had sold to the Complainant as aforesaid, as was directed and intended by the said Deed, and that the true values of all the said Lands would be much better and more certainly known thereby, than a common estimate of eleven shillings an Acre, as this Defendant believed; and because a great part of the said Lands did lye near or surround the said Market Town of *Wem*, from whence the Tenants might have several Materials for the improvement of the said Lands, which this Defendant did the rather because the said Mr. *Adams* in the presence of Mr. *Kynaston* did make a particular view or estimate of the said Widow *Tylers* Living, and thereupon valued some part thereof, as this Defendant remembreth, at or about twenty shillings an Acre, which

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which was near her House and easily improved, and that whole Living would have amounted, as this Defendant verily believes, unto thirty pounds *per annum*, and above, and was so rated in the particulars sent to this Defendant at the time of his purchasing the said Mannors. And the said Widow *Tylers* Living being valued but at eleven shillings the Acre, one with the other, the highest rate of the said Living (as this Defendant believed) did not amount to above four and twenty pounds *per annum*, whereby it did plainly appear that the yearly value of the said Living did fall short of the common reputed value a full fifth part, by that rate of eleven shillings the Acre, and so this Defendant did thereby suppose and was well assured that most or all of the said Copy-hold Lands would by such general rate fall short a fifth part or thereabouts of the true and real value thereof, the said Copy-hold Lands being generally as good and valuable as the said Widow *Tylers* (as this Defendant believeth) with which this Defendant acquainted the said Mr. *Adams*, and desired that he would use his Reasons and Arguments with the said Mr. *Kynaston*, to make a view and receive a more certain information of the true value of the said Copy-hold Lands, and other the Lands and Tenements sold by this Defendant, as aforesaid, which discourse this Defendant did believe that the said Mr. *Adams* would have made known to the said Mr. *Kynaston*, but for the Reasons

sons aforesaid, and his daily expecting the return of the said Lord *Cholmondely*, he said he could not appoint any certain time when to attend the said Mr. *Kynaston*, upon the business aforesaid, but the said Mr. *Fennings* coming to *Wem*, on or about the eighth day of *October* last, where this Defendant accidentally met him, at which time the said Mr. *Fennings* did press for an end of the said view and survey of the Lands and Premises before mentioned, to whom this Defendant replied, that the persons to whose care the same was committed, were persons of Quality, and had business of their own, as before is mentioned, and therefore this Defendant conceived, it was not convenient they should be forced or pressed farther than their own Business or Occasions would permit, and that the said Mr. *Adams*, this Defendants Referree, had very lately before declared, That he was very uncertain of his return out of *Cheshire* to attend that business, because he did expect his Lordship from *London*, as aforesaid; but the said Mr. *Edward Fennings* did answer, That he would procure the said Mr. *Adams* to meet at *Elsemeere* upon the *Monday* morning following, which was three days after; And this Defendant was credibly informed, that the said Mr. *Edward Fennings* was upon the ninth or tenth day of *October* in the morning at the Lord *Cholmondely's* House in *Cheshire*, and did so prevail with the said Mr. *Adams* as to meet at *Elsemeere* aforesaid,

aforesaid, being the *Monday* Morning following, being the twelfth day of the said Month of *October* last, at which time there was produced a Rent Roll or particular of the Rents and Values, as well of the Free Tenants, as of the Copy-hold Rents, increased Rents, as of the Cottages and Lands in this Defendants or his under Tenants possession, which this Defendant conceived to be about the real value thereof, and doth yet believe the same so to be, which Rent Roll or particular this Defendant had about four or five Months before that time, as he remembers, sent to the said Mr. *Kynaston*, to the end the true values thereof might be inquired after and better known, but upon the reading and examination thereof by the said Referrees and the said Mr. *Jennings*, whereby it appeared that some part of the Lands in this Defendants under Tenants possession, although they were not therein valued at more than this Defendant was informed they were really worth, yet they being set down something more than the said Tenants did at that time pay, the said *Edward Jennings* took occasion thereby to give this Defendant very bad Language, and although the said Referrees had not to this Defendants knowledge made any view or survey of the Premises, as was by the said Deed directed, yet by the contrivance of the said Mr. *Jennings*, as this Defendant for the reasons aforesaid doth believe, and doubteth not to prove, if required,

quired, That he the said *Edward Jennings* did draw up a Writing on or near the thirteenth day of *October*, purporting an Award or Estimate of the Premises, and wherein it is alledged, That they the said Referrees having viewed, surveyed and informed themselves of and in the Premises, did compute and ascertain the said yearly Rents, and other Rents and Values of the Lands in possession of this Defendant or his under Tenants, and all other particulars to them referred, as if there had been a real view and survey thereof, which Writing was altogether unknown to this Defendant, until this Defendant came into the Room where the said Referrees were about Signing and Sealing of the said Paper, purporting the Particulars aforesaid, as this Defendant was afterwards informed; at which time this Defendant desiring to speak with his Referree, *Mr. Adams*, and enquiring of him of what they were going to Seal, the said *Mr. Adams* gave this Defendant little or no answer satisfactory to his demands, this Defendant then supposing it was something that would be to this Defendants great damage, desired and forbid the said *Mr. Adams* to Sign or Seal any such Writing, especially when the said *Mr. Kynaston* and the said *Mr. Adams*, as this Defendant believes had taken no personal view or survey of the said Manors and Premises, except the Widow *Tylers* Living, as aforesaid, and therefore they could not make any

any certain Award thereof, as this Defendant believed, and the said Mr. *Kynaston* hearing or taking notice, as this Defendant supposed, of his discourse with the said Mr. *Adams*, they the said Referrees did both of them often declare, That notwithstanding any thing writ or by them sealed, it should not be to the damage of this Defendant, or words to that effect; Neither should the said Paper or Award, as the said Mr. *Kynaston* then said and declared, be delivered to any person whatsoever, until the Particulars were farther examined and rectified, as they should then after at any time, by any view or survey be better informed, or by any other satisfaction that this Defendant should at any time then after produce or make appear, or words to that effect. But this Defendant upon his return to his own House, being much dissatisfied by the said Proceedings of the said Referrees, did about a week following, desire the said Mr. *Adams* to meet this Defendant, and to give him some more certain Account of the said Mr. *Kynaston* and his actings with the said Mr. *Adams*; And this Defendant did meet at *Whitchurch* on or about the twenty third day of *October* last, where the said Mr. *Adams* did acquaint this Defendant with the Writings Sealed and Subscribed by the said Mr. *Kynaston* and the said Mr. *Adams*, wherein they had computed the several Sums of the several Heads and Particulars to them Referred, but said, they were farther

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ther to be enquired after, as they should either upon their own view, survey, or better information of this Defendant, or otherwise to be made known unto them, be better informed, or words to that effect; and to that purpose the Defendant believes it is under their or one of their Hands. And this Defendant farther saith, That he heard that the said Mr. Kynaston did soon after go to *London* to attend the service in Parliament, as aforesaid, and this Defendant came then soon after, viz. about the fifth of *November* to *London*, about his own concerns, where he hath continued for the most part ever since, except some time spent in fetching up the Writings hereafter mentioned, so that this Defendant could not have any opportunity to attend the said Referrees, to desire their personal view and survey of the Premises, neither doth this Defendant believe that the said Mr. Kynaston and Mr. Adams according to the power and directions to them given, at the request of his Lordship the Complainant, and of this Defendant or otherwise, did ever view or survey the Premises, as this Defendant believeth, otherwise than as aforesaid, notwithstanding what is alledged to be done by them in the Writing dated on or about the 28th day of *January* last past, whereby the said Mr. Kynaston and Mr. Adams, as is said therein, do certifie, That they having viewed, surveyed and informed themselves of and in the Premises, had computed the yearly

yearly Rents, as well the Free Rents, as the Copy-hold Rents, Burrough-hold Rents, Burrough-hold Herriots, and increased Rents, to amount to eighty one pounds four shillings and eight pence half penny *per annum*, which at twenty years Purchase did come to one thousand six hundred twenty four pounds fourteen shillings and two pence, and the yearly value of the Demesne and Cottage Rents, to thirty two pounds two shillings *per annum*, for which his Lordship the Complainant was to pay to this Defendant twelve years Purchase, which came to three hundred eighty five pounds four shillings; and they did compute the yearly value of the Copy-holds in the Manor of *Wem*, to one thousand three hundred twenty two pounds four shillings, at three years Purchase; and for the casual Fines, Herriots and other Profits, to three thousand nine hundred sixty six pounds twelve shillings; and the yearly value of the Copy-holds within the Manor of *Loppington*, to one hundred sixty three pounds thirteen shillings and four pence, at the rate of three years Purchase; for the Fines, Herriots and other Profits, did amount to four hundred ninety one pound; and that they did value the Timber in *Cotton-wood* to one hundred seventy five pounds, and the *Turbary* in *Wem Moss* to twenty shillings *per annum*, at twelve years Purchase was twelve pounds. All which Sums, as they say, come to six thousand six hundred fifty four pounds ten

shillings and two pence, which was fifty four pounds ten shillings and two pence more than had been paid by his Lordship the Complainant to this Defendant. And the said Mr. *Kynaston* and Mr. *Adams* did order and appoint his Lordship the Complainant to pay to this Defendant, the said fifty four pounds ten shillings and two Pence, according to the Contents of the said Indenture of Agreement of the twenty third day of *December*, one thousand six hundred eighty four, to which Award and last mentioned Deed this Defendant for more certainty doth refer himself : And this Defendant farther saith and acknowledgeth, That there was a Parchment Writing, subscribed with the Names of *Edward Kynaston* and *William Adams*, said to be an Award Published and Sealed by them, brought to this Defendants Lodgings, on or about the eighth day of *February* last, by one Mr. *Leaveing*, as this Defendant understood his name to be, in a Paper subscribed for *Daniel Witherly*, Esq; but the Seal thereof was broke open before it was delivered or left for this Defendant, which when this Defendant saw it was broke open, this Defendant did refuse to receive it from the said Mr. *Leaveing*, who did notwithstanding leave the same in this Defendants Chamber, he this Defendant being then going abroad about his occasions; which Writing this Defendant did not read till about a Week following : And this Defendant doth acknowledge and believe,

believe, That on or about the tenth day of *February* last, his Lordship the Complainant did, as this Defendant believeth, cause one *Mr. Bloodworth* as he said his Name was, and one *Mr. Harris*, to tender to this Defendant the said Sum of fifty four pounds ten shillings and two pence, although this Defendant did not tell the same, who did also demand of this Defendant the said Statute of three thousand pounds, which this Defendant did then refuse, saying, That he would wait upon his Lordship the Complainant himself, and give his Reasons why he did not receive the said fifty four pounds ten shillings and two pence that was so tendred, nor deliver up the said Statute that was so demanded, and upon or about the eleventh day of *February* last, being *Thursday* morning, this Defendant did accordingly wait upon his Lordship at his House, and did desire his Lordship then to receive the Reasons why he did refuse the Mony tendred, and delivering up the said Statute. But his Lordship the Complainant then told this Defendant that he should give his Reasons in *Chancery*, for he would not hear the same, or to that effect, which as this Defendant supposeth is the cause of this Suit, and which this Defendant humbly conceives might have been prevented if his Lordship had been pleased to have heard this Defendant speak as aforesaid; but this Defendant doth not pretend his Lordship the Complainant did not cause

the Mony to be tendred, for this Defendant hath acknowledged the tender thereof, as aforesaid, but this Defendant hath great reason to believe, that the said Arbitrators did proceed to make their Award contrary to the directions and intentions of the said Deed, and have, as this Defendant humbly conceiveth and doubteth not to prove, if required, much undervalued the Premisses, and hopeth he shall not be concluded by their said Award, because the said Arbitrators did not, as he hopeth will appear, neither view nor survey the Premisses, as they were directed and desired by the said last recited Deed, of the three and twentieth day of *December*: one thousand six hundred eighty four; so that they could not, as this Defendant is advised, duly proceed in the making of their Award. And the said *William Adams* was desired and directed to proceed according to the said Deed. And this Defendant doth deny that he ever threatned to set on foot any Incumbrances, or that the Premisses are chargeable with any Incumbrances as he knows of, other than such Incumbrances as he did at first make known to his Lordship or his Agent Mr. *Jennings*, and gave Mony to an Attorney named or approved of by the said *Edward Jennings* for the discharge thereof; and this Defendant was informed and hopeth that they were accordingly discharged. And this Defendant farther saith, That he was so far from detaining or concealing the Deeds,

Deeds, Court Rolls and Evidences touching the Premisses, that rather than he would discontent his Lordship the Complainant, he this Defendant took a Journey on purpose from *London* into *Shropshire*, on or about the tenth of *December* last, which was an unseasonable time for him this Defendant to fetch up the said Court-Rolls, Court Books, and Evidences that were in his custody, and brought them to his Lordship the Complainants own House, and delivered them to one Mr. *Hitch*, by his Lordships order, although this Defendant had occasion to make use of many of the said Court-Rolls, Court Books and Writings for recovery of such Sums of Mony, as were agreed to be paid to this Defendant as aforesaid, but his Lordship did then order the said Mr. *Hitch* to take a Catalogue, and to deliver a true Copy of the said Catalogue unto this Defendant, which this Defendant hath several times desired and demanded from the said Mr. *Hitch*, but he the said Mr. *Hitch* hath told this Defendant that the said *Edward Jennings* hath got the said Catalogue into his custody, so that this Defendant without the particular order of his Lordship the Complainant, doth not expect the same from him, by whom he hath been so hardly dealt with; for when the said last mentioned Indenture of Agreement was perusing by the said Mr. *Pollexfen*, he this Defendant did acquaint the said Mr. *Pollexfen*, That among the Exceptions to be made on be-

half of this Defendant, he did insist upon two several Fines, which this Defendant supposed to be due to him, one whereof was the Fine of *Robert Wilkinson* for the Copy-hold Lands he had bought of one *Mr. Astley*, and were to be surrendred by the said *Mr. Astley* to the said *Wilkinson*, for which purpose the said *Mr. Astley*, as this Defendant was told by him, had almost two years after sealed a Letter of Attorney to two Copy-Holders to surrender the same, according to the custom of the Manor, as hath been alledged by the Tenants, and for want of execution thereof, this Defendants Steward had caused the said *Wilkinson* to be proclaimed three Court days to take his Admittance to the said Copy-hold Lands and Tenements, and the said *Wilkinson* not appearing to be admitted, this Defendants said Steward had caused a Seizure to be made of the Premisses, and a Declaration in Ejectment was delivered to the said *Wilkinson*, as this Defendant was informed, to evict him the said *Wilkinson*, before the Sale of the said Manor to his Lordship the Complainant, and also the Copy-hold Messuage and Lands of *Robert Gough*, that was agreed for long before the Sale of the said Manor, to be Surrendred by one *Mr. Short* and *Mr. Shenton*, both which Fines this Defendant would have inserted into the said Deed of Agreement, but the said *Mr. Jennings* then told this Defendant, That his Lordship the Complainant was a very Noble Worthy Person, and

and advised this Defendant to refer the same to his Lordship, who, as he said, would not deny this Defendant the same, or Words to that effect, therefore desired the said Agreement might not be clogged therewith, so said the said Mr. *Pollexfen*, or to that effect. And thereupon this Defendant having had some Experience of his Lordships the Complainants fair and honourable dealings, he this Defendant was willing, and did thereupon leave it out of the Agreement aforesaid, depending upon the Honour of his Lordship the Complainant, whom also this Defendant did soon after acquaint with the said particular Fines, to which his Lordship did very worthily reply and declare, That as to those Fines or any thing else, though not inserted in that Agreement, which Mr. *Pollexfen* should think reasonable, his Lordship would freely consent unto, but the said Fines were both since received by the said *Edward Jennings*, or his order or privity, as this Defendant hath been credibly informed. And whereas the said Defendant by this Agreement, as he supposeth, is, among other things to receive all the Fines as are due from any persons for their Copy-hold Lands and Tenements by the death of their Ancestors, or Surrender before the sale of the said Manor, although they were not admitted to the said Copy-hold Land, nor their Fines set, there having been many Tenants that delayed their Admittances so long as they could, because
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of the Suits they had with this Defendant, yet the said Mr. *Fennings* hath caused some of the said Fines to be received also, as this Defendant hath been credibly informed, particularly *John Calcot* of *Cotton*, his Fine, whose Father dyed long before this Defendants Sale of the said Mannor, and although this Defendant, at the said Mr. *Fennings* his being at *Wem* in *October* last, when he was discoursing with the said *Calcot*, as this Defendant supposed, about the said Fine, he this Defendant did demand the same, but the said Mr. *Fennings* refused to permit this Defendant to receive it, and, as this Defendant hath been informed, the said Mr. *Fennings* hath declared, That his Lordship will not have his Tenants sued by this Defendant, for any Fines or Mony due to this Defendant, although it be within the said Agreement of the three and twentieth day of *December*, one thousand six hundred eighty four. All which actings of the said Mr. *Fennings* this Defendant believes, are without the knowledge and against the will of his Lordship the Complainant, whom this Defendant doth verily believe to have such Principles of Honour and Justice that he will not deny or deprive this Defendant of his just right, according to his Lordships Agreement. And therefore this Defendant doth desire to make known to his Lordship the Complainant, wherein he this Defendant humbly conceives he is wronged, because that in the Award before mentioned

ned to be made and published by Mr. *Kynaston* and Mr. *Adams*, they have among other things, omitted and not valued, as this Defendant doubteth not to prove, if required, many Lands called the demesne Lands, or Lands and Cottages in this Defendant, or his Under-Tenants Possession, as herein after is mentioned. And the said Referrees have valued other demesne Lands and some Cottages at thirty two pounds nine shillings *per annum*, for which they count but twelve years purchase, whereas this Defendant paid eighteen years purchase, as he believeth, for all Lands in possession, and believes them worth so much, so there is a third part taken off in that particular, which is one hundred ninety two pounds ten shillings, and they have totally omitted the *Castle Hill* and little Alleys, valued in the Particular, by which this Defendant did purchase the said Manor of *Wem*, at the yearly Rent of fifty shillings; *John Gads* House let for many years past at thirty shillings *per annum*, and other Lands, Tofts and Tenements in *Wem*, worth *per annum*, four pounds fourteen shillings more, as this Defendant hath been informed, wholly omitted. In the Township of *Newtown*, several inclosures and incroachments, worth *per annum*, one pound. In the Township of *North Wood*, Lands worth eleven pounds fifteen shillings, *per annum*. In the Township of *Edstaston*, one pound seventeen shillings and four pence. In the Township of *Cotton* four pounds eleven shillings and two pence.

pence. In the Township of *Steel*, seven shillings and four pence. In the Township of *Ashton*, ten shillings. In the Township of *Tilly*, twenty shillings. In the Township of *Loppington*, three pounds one shilling and six pence. All which do amount, as near as this Defendant can compute the same, unto thirty two pounds seventeen shillings, which at eighteen years purchase comes to about five hundred ninety one pound six shillings. And this Defendant believeth the said Referrees have omitted to value several Copy-holds in the Township of *Wem*, in the occupation of *John Whitfield*, *Thomas Feb*, *John Bailly*, *Joan Bringes*, *Edward Jones*, and other Copy-holders within the said Manor of *Wem*, because this Defendant hath valued the improved Rents of all the said Copy-holds, except the *Burgages*, which this Defendant believeth ought to be taken by Copy and to pay Fines within the said Manor, at one thousand six hundred seventy two pounds ten shillings *per annum*, which this Defendant believes to be very near or about the worth of them, and doubteth not to prove the same if required, because many of the Tenants have paid their Fines, as this Defendant believeth, after the same rate as this Defendant hath now valued them, which is three hundred and fifty pounds *per annum*, or thereabouts, more than the Referrees have estimated the same to be, which at three years value is one thousand and fifty pounds more than the Referrees computation.

tion. And this Defendant hath been credibly informed, That the Copy-hold Lands and Tenements in *Loppington* are worth two hundred pounds *per annum*, which the Referrees not having made any view or survey thereof, as this Defendant believes do value at one hundred sixty three pounds six shillings and four pence *per annum*, which is thirty six pounds six shillings and eight pence *per annum*, supposed to be less than the true value, which at three years purchase, comes to one hundred and nine pounds, as this Defendant believeth. And the Timber in *Cotton-wood*, at the time of this Defendants purchase, in his Particular was valued at two hundred eighty three pounds ten shillings; and this Defendant doth verily believe, That he did not cause to be taken away or felled above a sixth part of the said Timber, which he believeth were not worth the interest of the Mony that they were valued in the said Particular; so that he may yet hope they are worth upon a moderate and reasonable rate above two hundred and fifty pounds, which is seventy five pounds more than the Referrees did value the same; neither have the said Referrees put any value upon the Burrough-hold Lands and Tenements within the said Burrough or Town of *Wem*, which, as this Defendant hath been informed, are worth two hundred pounds *per annum*, or thereabouts, and by the Book of Customs or Custom Roll, delivered by the Lord *Newport*, as this Defendant hath heard,

heard, to his Lordship the Complainant, a Copy whereof this Defendant had by the Complainants order delivered to him, they are all Fineable Estates, as other Copyholds are, by all which it will appear, as this Defendant believeth, That the said Referrees have for want of their view and survey of the Premises, made under-values, and omitted many things to be valued, which this Defendant supposeth is so done by the instigation of the said *George Chambers*, or some other person, which this Defendant believeth the rather, because upon examination of the Rent Roll, or old Rents set down, which the Tenants were to pay, if any of the said Tenants seemed to dispute the same, as namely, an old Rent that one *Roger Spendloe* paid, and which had been paid, as this Defendant believeth, as well before this Defendants Purchase as since, for nineteen years and a half, the time this Defendant was Lord of the said Manor, yet the said *Chambers* upon information of the said *Roger Spendloe's* Son and Heir, made a great scruple, and seemed to refuse to make allowance thereof; the like for a Cottage in one *John Hughs's* possession, at the yearly Rent of six shillings eight pence, formerly paid for many years, because he did affirm the same to be out of repair, he the said *Chambers* would not permit the same Cottage to be valued: And the *Turbary* of *Wem Moss*, which this Defendant hath seen in a Rent Roll, as he remembreth, dated about a hundred years

years since, at twenty shillings *per annum*, and was let by the Defendant at thirty shillings *per annum*, is valued by the Referrees but at twenty shillings *per annum*, and but twelve years Purchase. And the *Moss* in *Cotton Wood* worth twenty shillings *per annum*, as this Defendant conceiveth, not valued at all. All which this Defendant doth humbly desire may be enquired after, and doubteth not but his Lordship the Complainant, by a real view, survey and inspection of the Premises, will be pleased to consider that this Defendant hath some reason to complain. And this Defendant doth well hope it will be made so plain, as his Lordship will not be displeased therewith. And this Defendant farther saith, That he having by this his Answer now made known to his Lordship this Defendants Aggrevances, he this Defendant is willing to refer the whole matter to his Lordship the Complainants own consideration and determination, and shall deliver up the said Statute to his Lordship when he shall think fit to demand the same, his Lordship giving this Defendant time and liberty to fetch it. And this Defendant will rely upon his Lordships Honourable dealing with him this Defendant, not doubting but his Lordship the Complainant will think of some course to be taken in the particulars, for the better satisfaction of this Defendant, whereby this Defendant may be encouraged to be useful in the Premises for his Lordships advantage.

tage. And this Defendant traverseth, without that, that any other matter or thing in the Complainants said Bill of Complaint contained, any way material or effectual in the Law for him this Defendant to make Answer unto, and not herein and hereby well and sufficiently Answered unto, confessed or avoided, traversed or denied, is true. All which matters and things this Defendant is and shall be ready to aver and prove, as this Honourable Court shall Award. And therefore humbly prays to be hence dismissed with his reasonable Costs and Charges in this behalf wrongfully sustained.

The Defendant Pleads several Conveyances, Fines, and a Decree of this Court, in Bar to the Complainants Bill.

THE said Defendant by Protestation, not confessing or acknowledging all or any the matters or things in the Complainants said Bill contained to be true, in such sort, manner and form as the same are therein and thereby set forth and alleged. As to so much of the said Bill as seeks to make subject to the Complainants Judgment in the Bill mentioned, the Manor of B. and other the Lands and Premises mentioned in the said Bill, to be lying within the County of E. and other the Manors and Lands named in the

the Decree herein after mentioned; Or that endeavours to make the said Lands and Premisses lyable to the Judgment alledged to be entred into by *T. G.* the Defendants Father in the Bill named, unto *J. G.* in trust for *J. B.* in the Bill named; These Defendants for and by way of Plea say, That *G. H.* Esq; deceased, late Grandfather of this Defendant *H. G.* did by his last Will and Testament in Writing bearing date on or about the seventh day of *March*, 1649. (amongst other things) give and bequeath unto the Defendant *H. G.* five thousand five hundred pounds, and to *F.* this Defendants Sister five hundred pounds, and unto *G. A.* another of his Grandchildren five thousand five hundred pounds, and to *E. A.* his Sister five hundred pounds; The said Sums to be paid unto this Defendant and the said other Legatees, at the respective Ages of one and twenty years, or days of Marriage, which should first happen, and in the mean time to be imployed by the Executors of the said Will, for the best advantage of the said respective Legatees; and of his said Will made the said *T. G.* and *E.* his then Wife, this Defendants Father and Mother Executors, and shortly after dyed. After whose death, the said Executors proved the said Will, and took upon them the Execution thereof. And the said *T. G.* knowing he was to secure the said Legacies to this Defendant *H. G.* and the other Legatees, and *T. S.* Citizen and Stationer

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of *London*, and *H. K.* of *St. Mary Cray*, in the County of *Kent*, Gentleman, being seised of the Manor of *B.* and divers Lands thereunto belonging, in trust for *T. W.* Esq; and the Lady *A.* his Wife, one of the Daughters of the Right Honourable *Theophilus* late Earl of *Suffolk*, by virtue of an Indenture of Bargain and Sale inrolled in this Honourable Court, and bearing date on or about the 16th day of *July*, in the year of our Lord, 1649. made between the Right Honourable *James* Earl of *Suffolk* of the one part, and the said *Tho. Walsingham* and the Lady *Anne* his Wife, *T. S.* and *H. K.* of the other part, and the said *T. G.* having contracted and agreed with the said *T. Walsingham*, for the purchase of the said Manor of *B.* and Lands thereunto belonging: By Indenture Tripartite, bearing date on or about the tenth day of *March*, 1650. made between the said *T. Walsingham*, the Lady *Anne* his Wife, *T. S.* and *H. K.* of the first part, the said *T. G.* of the second part, and *T. L.* of the *Middle Temple, London*, Gent. and *T. S.* the younger, of *W.* in the County of *K.* Gent. of the third part, The said *T. S.* and *H. K.* by the appointment and at the request of the said *T. Walsingham* and *A.* his Wife, did Demise, Grant, Bargain and Sell, unto the said *T. L.* and *T. S.* the younger, their Executors, Administrators and Assigns, the said Manor of *B.* with the Appurtenances, and all their Lands, Tenements and Hereditants whatsoever, in *B.* and all Messuages, Mills,

Mills, Lands, Tenements and Hereditaments whatsoever, Meadows, Pastures, Commons, Waits, Woods, Under-Woods, Fishings, Warrens, Rents, Services, Reliefs, Herriots, Amerciaments, Court-Leets, Profits of Courts, Waifs, Estrays, Franchises and Priviledges, and Appurtenances whatsoever, to the said Manor belonging or appertaining. To have and to hold to the said *T. L.* and *T. S.* their Executors, Administrators and Assigns, from the date of the said Indenture, for and during and unto the full end and term of 300 years; Under a Proviso to be void if the said *T. G.* his Heirs, Executors, Administrators or Assigns, should pay or cause to be paid unto the said *T. S.* the elder, and *H. R.* or either of them, their Executors, Administrators or Assigns, the Sum of 2026 *l.* 13. *s.* of lawful Mony of *England*, on the 16th day of *May* then next, or to the same effect, as in and by the said Indenture, relation being thereunto had, more at large appeareth. And these Defendants for farther Plea say, That that the said 2026 *l.* 13. *s.* was not paid to the said *T. S.* and *H. K.* according to the said Proviso, whereby the said Estate and Term of 300 years became absolute in the said *T. S.* and *H. K.* and the same by several Conveyances and mesne Assignments is since come unto and vested in *G. C.* of *Cambridge* in the County of *C. Gent.* in trust for this Defendant *F. C.* and to protect his Purchase of the Premises herein after mentioned, as in and

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by the several Conveyances and Assignments, purporting the same effect, relation being thereunto had, more at large appeareth. And by Indenture of Lease and Release, bearing date on or about the 12th and 13th days of *March*, in the year of our Lord, 1650. and Fine thereupon levied, They the said *T. Walsingham* and also the said *James* Earl of *Suffolk*, *T. S.* and *H. K.* at the request and by the direction of the said *T. Walsingham* and the Lady *Anne* his Wife, did Grant Alien, Release and Confirm unto the said *T. G.* his Heirs and Assigns, the said Manor of *B.* with all and singular the Appurtenances; And all Messuages, Lands, Tenements, Mills, Meadows, Pastures, and Priviledges whatsoever thereunto belonging. To have and to hold unto the said *T. G.* his Heirs and Assigns for ever; or to that effect: As in and by the said Indenture, relation being thereunto had, more at large appeareth. And these Defendants for farther Plea say, That by Indenture Tripartite, bearing date on or about the 18th day of *November*, in the year of our Lord, 1654. made between the said *T. G.* of the first part, *M. H.* Widow of the second part, *O. N.* Esq; and *W. F.* Gent. of the third part, In Consideration of a Marriage intended to be had and solemnized between the said *T. G.* and *M. H.* and in consideration of 1000 *l.* part of the Marriage Portion of the said *M.* and for divers other causes and considerations the said *T. G.* did

did covenant before the end of *Hillary* Term then next, to levy a Fine unto the said *O. N.* and *W. F.* and their Heirs, or the Heirs of one of them, and which was levied accordingly, of the said Manor of *B.* and Premisses, to the use of *T. G.* for and during the term of threescore years, if he lived so long, and after the expiration or other sooner determination of the said Term, to the use of the said *O. N.* and *W. M.* and their Heirs, during the life of the said *T. G.* upon trust to preserve contingent Remainders, and from and after his death, then to the only use and behoof of the said *M.* and her Assigns, for and during the term of her natural Life, for her Joynture, with other Remainders over, as in and by the said Indenture and Fine, relation being thereunto had more at large appeareth. And these Defendants for farther Plea say, That afterwards in or about *May*, 1666. the said *T. G.* and his said Wife for a valuable Consideration, by Deed and Fine duly levied and executed, Conveyed the said Manor and Premisses to *J. P.* and *G. P.* for the Term of 2000 years, under a Proviso of being void on payment of 2000 *l.* and Interest, as in and by the said Deeds and Fine, relation being thereunto had, more at large appeareth. And the Defendant *H. G.* for farther Plea saith, That the said *T. G.* having also with part of the Estate of the said *G. H.* Purchased in the names of Major *J. G.* late of the City of *Westminster*, Esq; and *J. E.* of *Lon-*

don, Grocer, the Manor or Lordship of *Dibden* alias *Dipden* in the County of *S.* with the Appurtenances. And the said *T. G.* being seised of the Manor, or reputed Manor of *Rushton*, *Stockford* and *Bimieger* alias *Benninger* with the Appurtenances, in the County of *Dorset*; and a Messuage or Tenement with several Lands thereunto belonging, in *Bodenbam* in the County of *Wilts.* By indenture bearing date on or about the 8th day of *March*, in the year of our Lord, 1654. made between the said Major *J. G.* *J. E.* and *T. G.* of the one part, *R. A.* *T. H.* and *J. W.* of the other part; the said *J. G.* and *J. E.* by the consent and appointment of the said *T. G.* as well for and in performance of a certain Decree made in this Honourable Court, the 10th day of *November*, 1653. in a Cause there then depending between the said *R. A.* and *G. A.* and *E. A.* Children of the said *R. A.* Complainants, and the said *T. G.* Defendant, and for other the Considerations therein mentioned, did Grant, Bargain, Sell, Alien, Enfeoff and Confirm unto the said *R. A.* and *T. H.* their Heirs and Assigns for ever, the said Manor or Lordship of *Dibden* alias *Dipden*, with the Appurtenances, and all and singular Messuages, Mills, Dove-Houses, Orchards, Meadows, Lands, Rents, Reversions, Services, Profits of Courts, Priviledges, Profits, Commodities and Hereditaments whattoever, to the said Manor belonging, and the Advowson of the Rectory and Church of *D.*

together with a Messuage, a hundred Acres of Land, twenty Acres of Meadow, fifty Acres of Pasture, and fifteen Acres of Wood, in *Butshaw Folly*, and *Dipden* or either of them (except as in the said Deed is excepted) And also all the Manor or reputed Manor of *Rushton*, *Stockford* and *Bermiger* alias *Benninger*, with the Appurtenances, with all and singular the Messuages, Lands, Tenements and Hereditaments whatsoever, thereunto belonging; and also the said Messuage and Tenement in *Bodenham*, with all Lands, Meadows, Pastures and Hereditaments thereunto belonging, To have and to hold the said Manors, Messuages Lands and Premises, unto the said *R. A.* and *T. H.* their Heirs and Assigns, to the only use and behoof of them, their Heirs and Assigns, in Trust for the respective benefit of the said *G. A.* and *E. A.* Son and Daughter of the said *R. A.* and for securing unto them such Legacies as were bequeathed unto them by their said Grandfather *G. H.* deceased. Under a Proviso nevertheless, That if the said *T. G.* his Heirs, Executors, Administrators or Assigns, or any of them paid unto the said *G. A.* and *E. A.* such Sums of Money yearly, until they attained their Ages of 21 years, or should be married, as in the said Deed are mentioned, and should also pay unto the said *G. A.* at such time as he should attain his full Age of one and twenty years, or day of marriage, which should first happen, the Sum of 5500*l.* and unto the said

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E. A. at her Age of 21 years or day of marriage, which should first happen, the Sum of 500*l.* Or in case the said *G. A.* dyed before his said Age of 21 years, or marriage, then the Sum of 1000*l.* to the said *E.* being for the Legacies given them by the last Will and Testament of the said *G. H.* that, then the said Deed to be void, or to that effect, as in and by the said Deed, relation being thereunto had more at large appeareth. And this Defendant *H. G.* for farther Plea saith, That in or about *Easter* Term, 1668. he did Exhibit his Bill into this Honourable Court, against the said *T. G.* and *M.* his Wife, *O. N. W. B.* and *F.* his Wife, *J. M. R. A. G. A. J. W. T. H. G. P. J. P. S. T.* and others, thereby setting forth the Will of the said *G. H.* and that the said *T. G.* knowing he was to secure this Defendants said Legacy of 5500*l.* did Purchase the said Manor of *B.* and other Lands of the Earl of *Suffolk*, and took the Conveyances in Trust for this Defendant, and often so declared, and ought to be Conveyed to this Defendant, towards satisfaction of his said Legacy and Interest, he having not received any part thereof. And this Defendant prayed by his said Bill a discovery of what Estates or Title the Defendant claimed to the said Manor of *B.* and other the Premises in the Bill mentioned, and from whom, and what Debts, Legacies, or other demands they claimed from the said *T. G.* and that this Defendant might be paid his

his said Legacy and Interest. To which Bill the said then Defendant put in several Answers, and this Defendant Reply'd, and Issue being joyned, divers Witnesses were examined, and publication duly passed, and the said Cause coming to a Hearing in this Court on the 21th day of *June*, in the 21th year of his now Majesties Reign, and in the presence of Council learned on all sides: The Court after a long debate of the matter, and hearing what was alledged by the Council learned on all sides, and reading the Proofs taken in the Cause, The Points chiefly insisted on between this Defendant and the said *B.* and *M. G.* as to the Manor of *B.* being, which should have the Redemption thereof, and whether the said Judgment entred into to *B.* could attach the said Manor, it being full in proof, That the said Manor was purchased with the mony raised out of the said *G. H.* his Estate, and declared by the said *T. G.* at several times to be purchased with this Defendants Legacy, and with an intent for the security thereof, and for his use and benefit; his Lordship therefore held it reasonable that this Defendant, whose Interest was much the greater, ought to be admitted to the Redemption thereof. And as to the next Point controverted, being the Security given to the Defendants the *Ashleys* for their Legacies, and the twelve thousand pounds in the hands of the Defendants *M.* and *T.* and the Purchase

chafe of R. and S. with 2800 l. being worth 200 l. *per annum*, and his Lordship declared, That the said *Ashleys* ought to have no interest, but the maintenance agreed on, and to be paid their Legacies in proportion with this Defendant, and did Order and Decree the same accordingly, for so much as had not been actually paid or satisfied before the Exhibiting this Defendants Bill. And that the 2800 l. before paid for *Ripley* and *Sopley*, should be discounted and go towards the payment of their Legacies of 6000 l. And the Defendants the *Ashleys* and their Trustees were to come to an Account with this Defendant for what the Manor of *Dipden*, *Ruston* and *Bodenham* Farm were worth more than their Legacies in proportion with this Defendant and his said Sister B.'s Legacies of 5500 l. and 500 l. proportionably, which was to go to their satisfaction. And what the Defendants the *Ashleys* and their Trustees had received by the Rents and Profits of *Ripley* and *Sopley* over and above the maintenance Mony, was to go also towards payment of their Legacies, and the Master was to examine and see how much mony Mr. *Ashley* had paid to Mr. C. in discharge of the Mortgage agreed to be discharged by the said T. G. and this Defendant was to Seal to the said Mr. C. the Counterpart of the Deed which the said T. G. should have Sealed, and to stand in his place, and have the benefit of Redemption of the said Lands in the Counties of

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Wilts, Dorset and Southampton, paying a proportionable part of the advantage thereby, towards the said Legacy due to his said Sister *B.* And it was also Ordered and Decreed, that the said *T. G.* should assign and transfer over to this Defendant, all his the said *T. G.*'s interest and demand in and to the residue of the said Estate of the said *G. H.* not received in or disposed of. And the said *T. G.* and his Estate were to be lyable to make satisfaction for the surplus of this Defendants Legacy, above what could be thereof satisfied by the provisions aforesaid, with other direction as to the taking the Account. And afterwards the said Cause was several times reheard, as to the interest of *M. G.* and *W. B.* and his Wife; but the said Decree as to the *Ashleys* did and doth stand, and was confirmed: And at length it was, at the proposition of this Court (this Defendant and Mr. *B.* being then in Court, and also *M. G.* her Council consenting) Ordered, That the Differences between the said Parties, should be referred to the final award and determination of *Francis North*, Esq; then his Majesties Council, now Sir *Francis North* Knight, Lord Keeper of the Great Seal of *England*, and Sir *John Churchill*, and what end or award the said Referrees should make between the said Parties, was by the like consent to stand confirmed by the Decree of this Court, to be observed and performed by all Parties, to all intents and purposes, according to the tenor and true meaning

meaning thereof, without any Appeal from the same, or order for confirmation thereof. In pursuance whereof, the said Sir Francis North and Sir John Churchil made their Award, bearing date on or about the one and thirtieth day of July, 1671. after hearing of all sides several times, and thereby certified, They had considered of the value of the Estate, as well of *Berdenbal*, as the other Estate, desiring, if possible, that all parties should be satisfied to the full of their dues, but finding that the Estate would not bear the same, and that there was no means finally to settle differences between all the Parties, without the sale of *Berdenbal*, they did therefore order and award, That the Manor of *Berdenbal* with the appurtenances should be sold by *Christmas* then next, for the best value, and that in the mean time the said *Margaret* should go on with the redemption of the Premisses, she having then paid 1500*l.* of the Mortgage-Mony by Order of this Court, and that she or her Trustees should take the assignment thereof from the Mortgagees, upon an Account to be taken by Sir *John Coel*, according to the Order on hearing, in case the Parties agreed not therein. And when the Land was sold the Mony raised by Sale should be disposed of in this manner, (*viz.*) to satisfy the Mortgage-Mony by her paid with the interest thereof, from the time it was paid by Mrs. *Grove*, and out of the residue thereof she was to be paid the Sum of 1200*l.*

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in lieu and full satisfaction of her Joyn-
ture and all that she should claim out
of the Estate of Mrs. Grove, and give
this Defendant a Release of all matters
touching the same, and of all differences
between them, And they did also Order
and Award, That out of the said Purchase
mony, there should be paid unto Mr. B.
in full of all his demands out of the E-
state, in respect of himself or his Wife, the
Sum of 750 l. and that he and his Wife
should joyn in the Assurance to the Pur-
chaser of the said Lands, and he was to
deliver the Statute and all Securities he
had in or upon the Estate of this Defen-
dant or his Father or Grandfather, and
give this Defendant a general Release, who
was at the same time to give him a Re-
lease. And this Defendant and Mrs. Grove
were to ioyn in an Assurance to the Pur-
chaser of the said Lands, which was to be
settled by the Master, or to that effect;
Which Award was afterwards confirmed
by this Court. And this Court being in-
formed that the Defendant had procured
a Purchaser, It was on the 19th day of
October, in the three and twentieth year of
his now Majesties Reign, ordered and de-
creed, That the said Manor and Lands
should be sold, and that out of the Pur-
chase-Mony the said Mrs. Grove should be
satisfied so much of the Mortgage Mony
as she had then paid, and damages, and
also the 1200 l. according to the said A-
ward, who was thereupon to release to
this

Pleas and Answers.

this Defendant accordingly. And that the Mortgagees upon payment of their principal mony and damages, according to the Order of the one and twentieth of *June* 1669. should assign the said Mortgage to the Purchaser for securing his Title to the Premisses, and to have their Costs, and that Mrs. *Grove* should joyn in the Conveyance or to that effect, as in and by the Decree signed and inrolled, remaining of Record in this honourable Court, whereunto these Defendants refer themselves, more at large appeareth. And these Defendants for farther Plea say, That in pursuance of the said Decree, the said J.P. and G.P. in consideration of 2687 *l.* 14*s.* 10*d.* did by Indenture bearing date on or about the 22th day of *December*, 1671. Grant and Assign over the said term of 300 years, unto *Thomas Robinson* of the *Inner Temple*, *London*, Esq; and the said Term of 2000 years, unto *Ralph Grange* of the *Inner Temple* aforesaid, Gent. And the said *Margaret Grove* in consideration of the said Sum of 1200 *l.* did by Indenture of Lease and Release, bearing date on or about the 21th and 22th of *December*, in the three and twentieth year of his now Majesties Reign, Release and Confirm unto C.H. of the Parish of *St. Dunstons* in the West, *London*, Gent. his Heirs and Assigns, the said Manor of *B.* and all her Estate, Title and Interest in and to the same. And the said *W.B.* by Indenture of Lease and Release, bearing date on or about the 21th or 22th day

day of December, 1671. in consideration of the Sum of 750 *l.* to him in hand paid, did Grant, Release and Confirm unto *James A.* of *London* Merchant, since dead, his Heirs and Assigns, the said Manor of *B.* and all the Lands, Tenements and Hereditaments thereunto belonging, and all his Estate, Title, Claim and Demand whatsoever, in and to the same, or to that or the like effect, as in and by the said several Deeds and Conveyances ready to be produced, and whereunto these Defendants refer themselves, more at large appeareth. And this Defendant *H. G.* hath sold the Manor of *B.* with the Appurtenances to the other Defendant *F. C.* And this Defendant and his Trustees have Conveyed the same, and all their Estate therein to the said *F. C.* and his Trustees, and the Purchase-mony was all paid and satisfied to this Defendant, and the Mortgagees or his or their Order, and no part thereof is left in his Hands, to secure him against any Incumbrance whatsoever. And this Defendant *Grove* for his more certainty, as to the said dates and recitals of the said Deeds Conveyances and Decree, refers himself thereunto. And the said *F. C.* saith, That he hath purchased of the said other Defendant *H. G.* the said Manor of *B.* and all the Lands, Tenements and Hereditaments for the consideration of 6500 *l.* which this Defendant hath long since really and *bona fide* paid for the same, and hath Conveyances of the said Term of 300 years, and

2000 years, and also the Inheritance of said Manor and Premises, duly executed to him and his Trustees, whereby he is advised he is legally intituled to the same, and ought quietly to hold and enjoy the same. And this Defendant *H. G.* for farther Plea, saith, That he claimed the said Manor and Premises, and the Equity of Redemption of the said Manor of *Dipden, Rushton, Stockford and Beninger and Bodenham* Farm, over and above what would satisfy the said *Mr. A.* and his Sisters Legacy by virtue of the said Decree, towards satisfaction of his said Legacy of 5500*l.* with interest (and which came far short to satisfy the same) and is advised the same is not either in Law or Equity lyable to to satisfy the Judgment in the Bill mentioned (in case any thing be due thereon) or any other Debts of the said *T. G.* All which matters these Defendants do plead in bar to that part of the Complainants Bill, and humbly demand the Judgment of this honourable Court, whether they shall be compelled to make any farther or other Answer thereunto. And these Defendants for Answer unto so much of the said Bill as is not herein before pleaded unto, say, That they do severally deny, that they or either of them is or are Executor or Administrator to the said *T. G.* or ever administered as such, nor know of any person that was Executor or Administrator to him, nor did they or any other in trust for them, or either of them

them, or for their or either of their uses, to their knowledge, possess any part of his personal Estate, saving that this Defendant *H. G.* had some old things, which to the best of his Judgment were of the value of about 3 *l.* or 4 *l.* which were left in the House of *Mr. B.* after he had taken the said *T. G.*'s Goods in Execution, as is hereafter set forth. And this Defendant *H. G.* saith, That the said *T. G.* his personal Estate was before his death taken in Execution by the said *W. B.* upon a Judgment or Judgments obtained against the said *T. G.* for 2000 *l.* or thereabouts, which was well known to the said *J. B.* and the said *W. B.* had the same for satisfaction thereof. And these Defendants deny all manner of Combination wherewith by the said Bill they stand charged, or that this Defendant *F. C.* hath in his Hands any part of the Purchase-Mony, for the said Manor of *B.* or did detain any part thereof to answer any Incumbrances the said Lands might be lyable unto. And this Defendant *H. G.* saith, That the said *J. B.* was acquainted and well knew of the said Suit and Proceedings, yet never did during the said Suit, or the said *Thomas Groves* life-time, extend the same, as this Defendant ever knew or heard of. And this Defendant knows not of any other Manor or Lands, than as aforesaid, that the said *T. O.* or any other in trust for him, were seized or possessed of at the time the said Judgment is pretended to be en-

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Sect. 1.*

tred into, or at any other time since, except he was seized of the Manor of D. in the County of *Essex*, which, whether it were sold before or since that time, this Defendant doth not certainly know. And these Defendants know nothing of the Assignment of the Judgments in the Bill mentioned; nor what Title the Complainants or any of them have to the same, or the Mony due thereon, if any be, without that that, &c.

The Defendant pleads a Verdict and Judgment thereupon, not undone by Attaint or Error, and the Statute of the 4th of Henry the IV. in Bar to the Complainants Bill.

Sect. 17.

THE said Defendant by protestation not confessing or acknowledging all or any of the matters or things in the Complainants said Bill contained, to be true, in such sort, manner and form as the same are therein and thereby set forth; the Plaintiffs said Bill being to be relieved against an Action at Law, brought by this Defendant for Fees due to this Defendant for managing several Law Suits for the Complainant, and for Monies laid out and expended by this Defendant for the Complainant in managing the same, and to bring this Defendant to an Account. This Defendant for Plea to the said Bill saith, That by a Statute made in the Parliament holden

holden at *Westminster*, the morrow after the Feast of *St. Michael*, in the fourth year of the Reign of our late Sovereign Lord King *Henry* the 4th. It is ordained and stablished, That after Judgment given in the Courts of our Sovereign Lord the King as well in Plea real, as in Plea personal, the Parties and their Heirs shall be thereof in peace, until the Judgment be undone by Attaint or by Error. And this Defendant saith and averreth, That before the said Complainants Bill of Complaint exhibited, this Defendant brought an Action in the Court of *Common Pleas* at *Westminster*, for the recovery of his said Fees, and Monies expended and due to this Defendant from the Complainant as aforesaid, and obtained a Verdict for 14 l. and hath Judgment thereupon, which Judgment this Defendant avers was obtained before the said Bill Exhibited, and yet remains in full force, and is not undone by Attaint or Error, and therefore this Defendant pleads the said Statute and Judgment in Bar of the Complainants said Bill, and humbly prays the Judgment of this Honourable Court, whether he shall make any farther or other Answer to the Complainants said Bill, and prays to be hence dismissed with his Costs in this behalf wrongfully sustained.

The Joynt and several Plea of E. C. Widow, J. S. Esq; and M. his Wife, three of the Defendants to part; and their joynt and several Answer to other part of the Bill of Complaint of E. D. Complainant.

THE Defendant E. C. by protestation not confessing the matters in the Complainants Bil' of Complaint alledged, or any of them to be true, in such sort as the same are therein expressed; for Plea unto the said Bill of Complaint saith, That G. T. F. F. and T. E. affirming themselves to be seized (and being seized as this Defendant is advised by her counsel and believes) in Fee of all those Manors with their Appurtenances, scituate, lying and being in S. in the County of B. commonly called or known by the several Name or Names of L. 7. and B. in R. and of and in all the said Scite, Capital Messuage or Manor-House, with the Appurtenances in S. aforesaid, and also of all Demesne Lands, and other Lands, Meadows, Feedings, Pastures, Woods, Under-Woods, Commons, Closes, Rents, Reversions and Hereditaments whatsoever, being part, parcel or member of the said Manors, or either of them, and also of all that Close called *Heydon-Close*, scituate, lying and being in S. aforesaid, containing by estimation 17 Acres. And also of all those Messuages, Tenements and Farms, with the Appurte-

Appurtenances, commonly called or known by the names of, &c. in the said County of B. and one J. R. affirming himself to be interested and possessed, (and being interested and possessed as this Defendant is advised by her Council, and believes) of the Premises, by virtue of an Extent, upon a Statute of 1000 l. heretofore acknowledged by J. M. and Jo. M. in the said Bill named, unto B. C. in the Bill also named, she this Defendant did agree with them for the purchase of the Fee-simple of the said Premises, and also of the said extent thereupon. And that in pursuance of the said Agreement, the said G. T. F. P. and T. E. by their Deeds of Lease and Release, bearing date, &c. and then or within few days after sealed and delivered (to which Deeds the said J. R. is a Party) did for a real and valuable Consideration, in mony truly paid, convey the said Manors Lands and Premises, unto G. T. Gent. and his Heirs, to the use of him and his Heirs, in trust nevertheless for her this Defendant E. C. and her Heirs; and the better to secure and protect the same from Incumbrances, the said J. R. also, for the like valuable consideration, in mony truly paid, by his Indenture bearing date, &c. and then, or within few days after sealed and delivered, did assign the said Extent upon the said Statute unto her this Defendant: At which time, or at any time before, this Defendant had not any notice of the Complainants Annuity of 50 l. per annum, or

the Statute in the Bill mentioned, for securing thereof. And this Defendant did not at the time of such Purchase by this Defendant, or any time before, know any thing to the contrary but that the said *T. F. E.* and *T.* or some or one of them, were the true and lawful Owners of the whole and entire Premises, without any trust for any person or persons whatsoever, and this Defendant purchased the same, without any notice of the said Incumbrance of 50 *l. per annum*, upon the same or any part thereof, or of the said Statute of 1000 *l.* in the said Bill mentioned; which matter by her this Defendant pleaded, she doth aver, and will prove as this Honourable Court shall award, and humbly demands the Judgment of this Honourable Court, whether she shall be compelled to make any other or farther Answer to the said Bill, or make any discovery, whereby to prejudice and incumber the said Premises, or any part thereof, farther or otherwise than by her Answer she hath hereafter done. And the said Defendant *E. C.* saving the benefit of her Plea for Answer farther saith, That neither at any time before, nor at the time of the purchasing the said Estate and Statute, she ever knew or heard, nor had any notice, of the Complainants pretended Rent or Annuity of 50 *l. per annum*, or any other Sum, or of the said Statute pretended to be entred into by the said *J. M.* or any other Incumbrance which the Complainant had

had on the Premisses or any part thereof. And the said J. S. and M. his Wife, likewise by way of Plea say, That the claim they make to the said Premisses, is under the said Purchase and Title of the said E. C. in her Plea set forth, And that they or either of them never heard or knew until near about a year before the exhibiting of the Complainants Bill, which was long after the purchase of the said E. C. and long after the claim these Defendants make to the said Premisses of the Complainants Rent or Annuity, or Statute of 1000 l. in the said Bill set forth. And they do also aver their said Plea, and humbly demand the judgment of this Honourable Court, whether they or either of them shall be compelled to make any farther Answer to the said Bill, other than what they do hereafter answer unto. And all the Defendants by Answer deny all Combination by the Bill charged, and justify detaining the Evidences, and refuse to discover them to the Complainant; and justify the keeping possession of the Premisses, by and under the purchase of the said E. C. as aforesaid, as it hath gone ever since the said Purchase. And pray to be dismissed with Costs.

The Answer as to part, and Plea as to the other part of Sir T. M. Baronet, Defendant; to the Bill of Complaint of R. P. Gent. Executor of Dame S. L. Complainant.

Sect. 18.

THE said Defendant saving to himself the benefit and advantage of exception to the many incertainties and insufficiencies of the said Complainants Bill of Complaint; for Answer to so much thereof as he conceiveth material for him to Answer unto saith, That he was intimately acquainted with Sir J. L. in the Bill named, both before his Marriage with the said Dame S. and after, until the time of his death, and that he the said Sir R. L. hath complained to this Defendant, that there were very strict Articles made upon his Marriage with the said Dame S. and lamented his condition, that he deposited his Monies in the Trustees hands, and could not command a penny, nor perswade his Wife to abate any part of the strictness of them, and thereupon went into the Kings Army, and as he remembreth, was made Major-General of South-Wales, and being at Ragland Castle on or about the 16th of October, 1642. told this Defendant that he had a considerable sum of Mony by him, which he would deposite in this Defendants hands, that he might have of his own to command, and that he repented he had put so much into his Wives Hands or power,

er, and declared to this Defendant that she should have no more Mony of his, and that if he dyed in the Wars, he did charge this Defendant by no means to let his said Wife have it, but should be kind to his poor Relations, if that any of them came to him. But this Defendant saith, that he never did know, see or read, or heard read, either the Articles or Bond in the Bill mentioned, nor any Part, Copy or Counterpart of them, or either of them, nor was ever acquainted with the purport of them, or either of them, by the said Sir R. L. or any other, in any other manner than is above-mentioned, save by this present Bill. And this Defendant confesseth it to be true, That on or about the said 16th of *October* this Defendant did receive of the said Sir R. L. a considerable Sum of Mony (though what the same was this Defendant conceiveth this Honourable Court will not compel him to discover, for the reasons hereafter in this his Answer and Plea alleadged) but 'twas not the Sum of Mony in the Bill alleadged. And upon receipt of the said Sum of Mony this Defendant did give the said Sir R. L. a Note under his Hand, testifying the receipt of the said Mony. And that this Defendant did promise to keep it for him in his custody, until such time as this Defendant should be ordered to dispose of it by him for his use. And this Defendant did receive the same upon no other trust, condition, direction or agreement whatsoever,

Pleas and Answers.

soever, than as aforesaid. And this Defendant saith that some short time after the said Sir R. L. was slain in the Forest of *Dean*, and afterwards, to wit in or about the Month of *April*, 1644. one Mr. G. L. Brother of the said Sir R. L. came to this Defendant, and brought to this Defendant the Note aforesaid that this Defendant had given to Sir R. L. and to the best of his this Defendants Remembrance, Letters of Administration to his Brothers Estate, and demanded the mony so as aforesaid, deposited in this Defendants custody, whereupon this Defendant having before that time lent the said Sir R. L. some small Sums of Mony, and made several disbursements for the said Sir R. L.'s Account, which were allowed to this Defendant by the said G. L. and were really due to this Defendant from the said Sir R. L. at his decease, this Defendant did pay and satisfie to the said G. L. really all the rest of the Mony deposited in his Hands, as aforesaid, and had his former note delivered him up, and the said G. L.'s receipt for the whole Sum so deposited, as aforesaid, neither did this Defendant ever know or was acquainted that the said Sir R. L. made any Will, or any Executor but by this Bill, nor hath he or ever had, or ever took into his possession any Goods, Mony, or other things of the said Sir R. L. save the Sum aforesaid, nor hath any other person, or ever had the same or any of them by this Defendants direction or order. And as to the discovery of what the said Mony was, and

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in bar for any relief to be had in this Honourable Court against this Defendant for the said Sum of Mony so deposited, as aforesaid. This Defendant saith, That he did really and *bona fide*, satisfy the said G. L. for the same, and that he did then to his best remembrance inform this Defendant that he was Administrator to the said Sir R. L. and that the said Sir R. L. had made no Will. And this Defendant did really believe that he was the person that ought of right to receive the same. And therefore conceives that he is not lyable to discover in Equity the Sum of Mony which he hath really satisfied and paid to him that had, as far as this Defendant knew, the only right to the same. And this Defendant farther saith, That after the said Mony was deposited in his Hands, he did stay and was resident within this Realm of *England* until the month of *June*, in the year of our Lord God, 1647. during which time there was no Bill, Action or Suit commenced against this Defendant, to the knowledge of this Defendant, or since, until this present Bill that was exhibited in *Hillary* Term last. And therefore this Defendant pleadeth the Statute of Limitations, and as this case is, craveth benefit thereof. All which matters and things this Defendant is ready to aver and prove, and demands the Judgment of this Honourable Court, whether he shall Answer to the matters herein pleaded to. And this Defendant for farther Answer saith,

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mitations.

saith, That he knoweth not what Will the said Dame *Susannah* made, nor what Legacies she bequeathed, nor whether she made any Will or any Executor. And confesseth, That from the said Month of *June*, 1647. until the Month of *November* 1671. he returned not into *England*, but was resident in *Barbadoes* or *Jamaica*, excepting the time of his passage to and from the said places, and in all that time, he doth not remember that he received any Letters or Messages from the said *S. L.* or her Executors, or any other persons on her behalf, touching the said Mony, or any thing else supposed to be belonging to the said *Sir R. L.* And prays to be dismissed with Costs.

The Plea of W. B. Esq; and E. his Wife, who was the Widow and Relict of J. Y. Esq; deceased, and one of the Daughters of F. P. Esq; deceased, to part, and their Answer to the residue of the Bill of Complaint of F. P. Esq; Grandson and Heir of the said F. P. Esq; deceased, Complainant.

THE said Defendants by Protestation not acknowledging or confessing the matters and things in the Complainants said Bill contained, or any of them to be true in such manner and sort as therein and thereby is expressed. For Plea to so much of the said Bill, as seeks to draw in question in this Honourable Court, their the said Defendants or either of their Titles to a certain Messuage or Farm, called *F.* in the

said Bill mentioned, and the Lands, Tene-
 ments and Hereditaments thereunto belong-
 ing, or any part thereof, or seeks to com-
 pel them these Defendants to set forth and
 discover the date and contents of their
 Lease thereof, or to deliver unto him the
 said Complainant an Authentick Copy or
 Counterpart of their said Lease, say : And
 first the said Defendant E. saith, That she
 this Defendant about five or six and thir-
 ty years since being very young, and un-
 der the government of her said Father,
 was, by and with his consent and good
 liking, upon such Terms and Conditions as
 he thought fit to make, married to the said
 J. R. who, as she this Defendant was in-
 formed by her said Father, and most as-
 suredly believes, was by the Agreement
 made between him this Defendants said
 Father, before his the said J. R. his inter-
 marriage with her this Defendant, to settle
 upon her a Joynture of 150 *l. per an. um*,
 And upon his eldest Son by her this De-
 fendant 300 *l. per annum*, And did pursuant
 thereunto levy, one or more Fine or Fines,
 and execute one or more Deed or Deeds
 for settling thereof accordingly. And farther
 saith, That the said J. R. hapning to dye
 about one and twenty years since, leaving
 Issue by her three Sons and one Daughter,
 she this Defendant did expect to have re-
 ceived the incomes of the said Estates so
 upon her and her eldest Son settled, or at
 least mentioned and intended to be settled,
 as aforesaid, for the respective maintain-
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ance of her self and Children, but the said Settlement (as she this Defendant was advised) being in Law defective, J. R. Esq. deceased, her this Defendants said late Husband his eldest Son, by a former Venter, took advantage thereof, and withheld the possession of the said Estate and Premises from her this Defendant and her said eldest Son for three or four years together, and put her to long and expensive Suits in this Honourable Court to recover the same. And that her this Defendants said Father having notice that the said Marriage-Settlement so made on her this Defendant and her issue, as aforesaid, was defective, and that she this Defendant had been put to great trouble and expence, and was likely to be at greater to supply the defects thereof (as in truth she afterwards was) in so much that she did suffer at least five hundred pounds prejudice thereby. And being sensible that he himself was the passive occasion thereof, by not taking such due care and advice in the making the said Settlement, as he was obliged in his paternal care to have done, did promise her this Defendant to consider her and make her some farther provision in consideration and recompence thereof. And he this Defendants said Father, being as she this Defendant hath been credibly informed and verily believes seised in his demesne as of Fee of part, and for life (with power to make Leases for one, two or three Lives, under such Rents as he should think fit to reserve

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serve of the residue) of several Manors, Lands, Tenements and Hereditaments, of the yearly value of a thousand pound at the least, besides the Wood and Timber growing thereupon, being then (as she this Defendant hath been likewise credibly informed and believes) of the value of 10000 £. to be sold, and having issue male only one Son, who had been married many years, and had issue the said Complainant only, and was not reputed in probability likely to have any more issue. And he, this Defendants said Father, amongst other Lands of which he was so seised as aforesaid, being seised of the said Manor and Farm called *F.* and of several Lands, Tenements and Hereditaments thereunto belonging, then in the tenure or possession of *F. P.* her this Defendants then only Brother, and Father of the now Complainant, since deceased, being of the yearly value of fifty pounds, or near thereabouts, was minded and fully resolved (as she this Defendant hath been informed and believes) in performance of his said promise to her this Defendant, And in recompence of the great trouble, charge and expence she had or might sustain, or be put unto to supply the defects of the said Marriage-Settlement, and for other good Considerations to settle the same upon her this Defendant, for her better maintainance during her life, in case she should survive him her said Father. And for that purpose he, this Defendants Father by Deed indented under his Hand and

and Seal bearing date the fifteenth day of *January*, 1655. then, or within few days after sealed and delivered, did (as she this Defendant is advised by her Councel and believes) convey, or at least mention or intend to convey the said Messuage or Farm called *F.* and all the Lands, Tenements and Hereditaments thereunto belonging, then in the possession of him the said Defendants Brother, to her this Defendant and her Assigns, immediately from and after the death and decease of him this Defendants said Father, for and during the term of fourscore years, from thence next ensuing, and fully to be compleat and ended, if she this Defendant should so long live; Yielding and paying therefore out of the said Premisses yearly to him this Defendants said Father, his Heirs and Assigns during the said term, one Pepper Corn only at the Feast of *St. Michael* the Arch-Angel, if it should be then lawfully demanded, by which Indenture the said *F. P.* this Defendants said Father, for him, his Heirs, Executors and Administrators, did covenant, promise and agree to and with her this Defendant, her Executors and Assigns that the Heirs. Executors or Administrators of him the said *F. P.* or some of them should and would from time to time during the Term aforesaid, satisfie, pay and discharge all Duties, Rates, Taxes and Payments which should be imposed, due or payable upon or out of the said mentioned to be demised Premisses, or upon every

every or any part thereof, at such time as the same should be due or payable, and should save, keep harmless and indemnified her this Defendant, her Executors or Assigns, and all and every the said Premises, of and from all and all manner of Payments, Taxes, Charges, Impositions, Assessments, or other Incumbrances, which should happen, fall due, arise or be imposed upon the said mentioned to be demised Premises, or any part thereof, during the said Term. And that she this Defendant, and her Assigns should and might have hold, occupy and enjoy the said Messuage and Farm House, Lands and Premises thereby demised, and every part thereof, with the Appurtenances during the Term aforesaid, according to the true intent and meaning of the said Indenture, without the let, suit, entry, interruption, or eviction of the Heirs or Assigns of the said F.P. or by his or their or any of their act, estate, means, consent or procurement, And that he the said F.P. his Heirs and Assigns, should and would from time to time, and at all times thence after, during the said Term, at the costs and charges of her this Defendant, or of her Assigns, do, execute and suffer, or cause to be done, executed and suffered, all and every such further act and acts, thing and things, devise and devises, conveyance and conveyances, assurance and assurances in the Law, be it by Fine, Feoffment, Recovery with single or double Voucher, Confirmation,

Release with Warranty or without Warranty, for the better security, surety or sure making of the said Messuage and Farm-House, and other the Premisses thereby demised to this Defendant and her Assigns, for and during the aforesaid Term, as should be reasonably devised or advised by her this Defendant or her Assigns, or by her or their Council learned in the Law, so as the said *F. P.* her Heirs and Assigns, were not compelled to travel farther than ten Miles from his or their place of abode, to do the same. And lastly the said *F. P.* did for himself, his Heirs and Assigns and every of them, by the said Indenture grant to and with this Defendant and her Assigns, and every of them, That he the said *F. P.* his Heirs and Assigns, all and singular the said Messuage and Farm-House, with the Appurtenances, and all other the before-mentioned to be demised Premisses, against the said *F. P.* his Heirs and Assigns, and every of them, and against all other person and persons claiming by, from or under him or them, unto her this Defendant or her Assigns, during the said Term of 80 years (if she should live so long) according to the purport of the said Indenture, should and would warrant, acquit and defend. And the said *F. P.* her this Defendants said Father, before he so made the Lease to her this Defendant, did affirm, That he had good power to make the same. And they these Defendants for farther Plea to the Complainants
said

said Bill of Complaint say, That the said F.P. her this Defendants said Father dyed on or about the twenty ninth day of September, in the year of our Lord, 1661. and believes and hopes to prove that he was at the time of his death seised in Fee, and for life, with such power, as aforesaid, of the said Manor, Lands and Premisses, of the value of a thousand pounds *per annum*, at least, besides the Wood and Timber thereupon growing, being (as these Defendants believe) of the value of a thousand pounds more, to be sold as aforesaid, and that after his death the said Premisses descended or otherwise came unto the said Complainant, partly as Heir at Law to his said Grandfather, and partly by virtue of some settlement by his said Grandfather made upon him. And that the said Lands and Premisses so descended to the Complainant as Heir at Law to his said Grandfather, were of far greater value than the Lands so by the said Indenture demised or thereby mentioned or intended to be demised to her this Defendant, as aforesaid. And are also credibly informed and do believe and hope to prove, That her this Defendants said Father was also at the time of his death possessed or otherwise interressed of and in a considerable personal Estate, or Testamentary Estate, to the value of four thousand pounds and upwards. And that F.H. Gent surviving Executor of the said last Will and Testament of her the said Defendants said Father, hath de-

livered up into the Hands of the Complainant the greatest part of the said Personal and Testamentary Estate, as the supposed *Cestui que trust* thereof. And they these Defendants by way of Plea farther say, That these Defendants after the death of her this Defendants Father, being then intermarried, by virtue of the said Lease, entred upon the said Farm and Premisses so thereby demised, or thereby mentioned or intended to be demised, to her this Defendant, as aforesaid, and have ever since till about the Month of *September* last past, quietly enjoyed the same, without the interruption or denial of any person or persons whatsoever; about which time a Writing, purporting (as these Defendants are advised and believe) a Declaration in Ejectment, in the name of *T.P.* as Lessee of the Complainant, in order to the recovering from these Defendants the possession of the said Farm and Premisses, and to evict their said Lease thereof, was delivered unto him this Defendant, being Tenant in possession of the Premisses. And the Complainant, the better to inable him (as these Defendants conceive) to proceed in the said Cause, and evict the said Lease, did demand of these Defendants a Copy or Counterpart thereof, which these Defendants refusing to deliver or execute unto him unless he would confirm the said Lease, He the said Complainant did exhibit his said Bill against these Defendants to enforce them to do the same. And that these Defendants there-
upon

upon, to prevent all disputes concerning the said Lease, by advice of their Council did authorize *T. B.* Esquire, to tender to the Complainant a Draught of a farther Assurance, drawn as these Defendants are advised and believe and hope to prove, pursuant to the said Covenant of the said Lease for farther Assurance, ready ingrossed in Parchment, with Wax ready to be Sealed, for him the said Complainant to execute, which (as these Defendants are informed by the said *T. B.* and believe) was duly tendred to the said Complainant to execute, and the said Complainant refused to execute the same: Whereupon these Defendants did exhibit their Bill in this Court against the Complainant, thereby (as these Defendants are advised) in substance setting forth the matters herein before pleaded, to enforce him to execute to her this Defendant a farther Assurance of the said Farm and Premises, so demised, or by the said Indenture mentioned and intended to be demised to her this Defendant according to the said Covenant of his said Grandfather. To which Bill the said Complainant (as these Defendants are informed and believe) did put in a Demurrer, which being set down in the Paper to be Argued before the Right Honourable the Lord Keeper of the Great Seal of *England*, was, upon the opening thereof, submitted by the said Complainants own Council, to be such as that he could not maintain, and was thereupon over-ruled: Which mat-

Answer.

ters so by these Defendants pleaded, they do aver and will prove as this Honourable Court shall award, and demand Judgment, &c. And they these Defendants saving to themselves the benefit of their said Plea, for Answer to the residue of the said Complainants said Bill of Complaint, say, That the said Lease so made by the said *F.P.* her this Defendants said Father, deceased, to her this Defendant, doth not contain any Covenant on the part and behalf of her this Defendant, her Executors or Administrators or Assigns, to be performed or kept, or any other Covenant or Reservation of Rent, than those which are herein before by way of Plea set forth: And respectively deny, That they or either of them, to the knowledge of each other, or any other person or persons for them or either of them, or by their or either of their delivery, consent or privity, have or hath any of the Deeds, Writings, Muniments or Evidences belonging to the Estate of the said Complainant, or to the Estate late of her this Defendants said Father, deceased, or any part or parcel thereof, except the said Lease so made to her this Defendant by her said Father, as aforesaid, or that they these Defendants or either of them, or any other person or persons, for their or either of their uses, or by their or either of their privity, consent, or delivery, ever had or possessed himself, herself, or themselves, of any such Deeds, Writings, Muniments or Evidences (except such thereof

thereof as were re-delivered to her this Defendants said Father, in his life-time, or his Executors or one of them, immediately after his Death, the contents whereof or of any of them these Defendants know not, which the said Complainant, as these Defendants believe, hath in his own custody. And respectively deny that they or either of them, or any other person or persons to their knowledge or behalf, did ever cancel or deface any of the said Deeds or Evidences, belonging to the Estate of the Complainant or to the Estate of her this Defendants late Father, deceased (as by the said Bill is scandalously and falsely alledged) and believe that the Complainant hath all the Deeds and Evidences concerning his Estate, which belong unto him, or which he ought to have in his own custody, uncanceled and undefaced. And these Defendants likewise deny that they or any other person or persons for them or either of them, or as Tenant or Tenants to them or either of them (to their knowledge or belief) have or hath or did at any time possess themselves, himself, or her self of any other part of the Estate of the said Complainant, or late of her this Defendants said Father, deceased, than what was demised or at least mentioned or intended to be demised unto her by the said Indenture of Lease (by which they justify the detaining the possession thereof) or that they these Defendants or either of them have or hath (to their knowledge)

at any time committed or caused or permitted to be committed, any wast, spoil or destruction, upon the said Premises so to her this Defendant demised or mentioned or intended to be demised, as aforesaid, or any part thereof, or upon other part or parcel of the Estate of the said Complainant, as by his said Bill is alledged, or otherwise howsoever. Or that they know of any other Estate or Right which they or either of them have, or that they do pretend to have any other Estate, Right or Title, of, into or out of the Estate of the Complainant, than what is herein before by way of Plea set forth. And she this Defendant denies that she did ever seal and deliver, or was required by her said Father to seal and deliver any Counterpart of the said Lease. But these Defendants say, That they are and shall be willing, and do now offer, as they have formerly offered; to deliver unto the said Complainant at his Costs and Charges, an authentick Copy, or to execute to him a Counterpart of their said Lease, in case he will confirm the same, and make farther Assurance of the Premises thereby demised, or mentioned or intended to be thereby demised to her this Defendant, according to the said Covenant for the farther Assurance mentioned in the said Lease. And they these Defendants do respectively deny all and all manner of Combination wherewith they are in and by the said Complainants Bill of Complaint unjustly,

ly charged. And pray to be hence dismissed with Costs.

The Plea of N. L. Gent. one of the Defendants to part, and his Answer to the residue of the Bill of Complaint of W. B. and A. his Wife, and C. L. and J. his Wife Complainants.

THE said Defendants by Protestation, not confessing any the matters and things in the said Bill of Complaint alleged to be true, in such sort as the same are therein expressed; for Plea to so much thereof as seeks to draw in question in this Honourable Court, his this Defendants Title to the Lands and Tenements therein, or herein after mentioned, or any part thereof, or to deliver the said Deeds and Evidences unto them the said Complainants, or either of them, saith, That he this Defendant is advised by his Council, and assuredly believes, That *W. W.* in the said Complainants Bill of Complaint named, was seised in Fee or Fee Tayl, to him and the Heirs Male of his Body, of and in all those Messuages, Lands, Tenements and Hereditaments, in the said Complainants said Bill of Complaint mentioned, commonly called or known by the name or names of *S. and H.* situate, lying and being in *T. W.* and *G.* or one of them, in the County of *S.* And also of and in all that Tenement commonly called or known by the name of

of C. scituate, lying and being in T.W. and G. aforesaid, or in some or one of them. And that he the said W.W. being so thereof seised and of the Age of four and twenty years and upwards, did in the Term of St. Michael, in the year of our Lord, 1654. in due form of Law, acknowledge and levy unto E.C. and J.S. and the Heirs of the said E. in his Majesties Court of Common Pleas at Westminster, one Fine *sur Conuzance de droit come ceo, &c.* with Proclamations, according to the Statute in that behalf made, of all and singular the said Premises. And that in the same Term a good and perfect Common Recovery, was in due form of Law had and suffered in the same Court of Common Pleas, of the same Premises. In which Recovery T.G. and E.H. did demand the Premises of the said E.C. and J.S. who vouched to Warranty the said W.W. who vouched over to Warranty the common Vouchtee, as in and by the Records of the said Fine with Proclamations and Common Recovery, relation being thereunto had, more fully and at large it doth and may appear. And that he this Defendant is advised by his Council and believes, That the said Fine was so levied by the said W.W. to the said E.C. and J.S. as aforesaid, to make them Tenants of the Free-hold thereof, that so a Common Recovery might be had and suffered thereof, in manner and form aforesaid. And he this Defendant by way of Plea farther saith, That the said W.W. in the

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the year our Lord, 1663. dyed without issue of his Body, and that *J.W.* the Complainants Father, in their said Bill named, was living at the time of the death of the said *W.W.* and then was, as this Defendant is informed and believes, and hopes to prove, of the Age of one and twenty years and upwards, and *compos mentis*, and at large, and out of Prison, and within the four Seas, and that he the said *J.W.* survived the said *W.W.* above ten years and did not within five years after proclamations had and made upon the said Fine, or at any time after, prosecute any Title, Claim or Interest, of, in or to the said Messuages, Lands and Premisses, or any part or parcel thereof, by Action, lawful Entry, or otherwise, so that (as he this Defendant is advised by his Counsel) the Remainder in the said Complainants said Bill of Complaint alledged to be limited of and in the said Premisses or any part thereof, to the said *J.W.* and his Heirs, for default of Heirs Male of the Body of the said *W.W.* by the pretended last Will and Testament of Sir *E.W.* in the said Complainants said Bill of Complaint also named, was dock'd by the said Recovery, and that in case the said Remainder was not dock'd by the said Recovery, yet however the said Complainants are barr'd of all Claim, of in and to the said Premisses, and every or any part of the same by virtue thereof, by force of the said Fine with Proclamations thereupon, and non-claim as aforesaid. And he this Defendant

Pleas and Answers.

Defendant doth aver his said Plea, and humbly demands the Judgment of this honourable Court, whether he shall be compelled to make any farther Answer to the said Complainants said Bill of Complaint than what he hath herein after made. And he this Defendant saving to himself the benefit of his said Plea for answer to the residue of the said Complainants said Bill of Complaint, saith, &c.

The Plea of T. C. Esq; Defendant to part, and his Answer to the residue of the Bill of Complaint of R. P. Complainant.

The Defendant Pleads a Fine above sixty years since from his Grandfather, of T. part of the Premises, and a Purchase of the other part above forty years, and that his Father and Brother enjoyed, and the Defendant now in the fourth descent from his Grandfather, and no Claim made by the Complainant or his Ancestors.

THIS Defendant by protestation not confessing or acknowledging all or any of the matters or things in the Bill mentioned to be true, in such manner and form as the same are therein and thereby set forth, for Plea to so much thereof as is not herein after answered unto, saith, That J. C. Esq; this Defendants Grandfather above sixty years, was (amongst other things) lawfully seised in Fee of the Premises

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misses in the Bill mentioned, called T. in the Parish, &c. And being so seized, he the said J. C. received the Rents, Issues and Profits thereof for divers years. And in Easter Term in the 13th year of the Reign of King Charles the first, the said J. C. levied a Fine, *Sur Conuzance de droit come ceo*, &c. of the said Premisses called T. amongst divers, Manors, Lands and Hereditaments, whereof he was then seized in Fee) as by the same remaining of Record in his Majesty's Court of Common Pleas at *Westminster*, it may appear. And this Defendant for farther Plea saith, That the said J. C. having been for forty years in possession of other the Lands and Premisses in the Bill mentioned, called B. and C. in the Parish of, &c. in the County of *Cornwal*, by virtue of several Leases to him thereof granted, for a term of years, determinable on the death of several persons. He the said J. C. on or about the 23th day of *May*, in the 15th year of the Reign of the said late King Charles the first, by Deed then dated, duly executed for 60 l. by him paid, being a full Consideration, purchased the Reversion and Inheritance of the said last mentioned Premisses, of and from one J. M. Esq; To have and to hold the same, to the said J. C. his Heirs and Assigns for ever; which said last mentioned Premisses were either held of the Manor of T. in the said County of C. whereof the said J. C. was seized in Fee, or else the same was annexed thereto by the said J. C. and

and become parcel thereof, and the Tenants of the last mentioned Premises do, and for many years last past have done and ought to do Suit and Service to the Court held of the said Manor of T. and the said J. C. this Defendants Grandfather being so seized of all the said Premises, he the said J. C. about years since, dyed, by and after whose death the same did discend, remain or come upon J. C. Esq. his Son and Heir, this Defendants Father, who entred thereinto and was seized thereof, in Fee or Fee Tayl, as this Defendant believeth, and received the Rents and Profits thereof, and about years since the said J. C. this Defendants Father dyed thereof seized, by and after whose death the same did discend, remain or come unto or upon J. C. this Defendants eldest Brother, who was so seized thereof, in Fee or Fee Tayl, as this Defendant believes, and about years since dyed without issue, by and after whose death all the said Premises, together with the said Manors of T. and divers other Manors, Lands and Tenements in the Counties of D. and C. did discend, remain, or come unto and upon this Defendant, being also the third Son of the said J. C. the Father who was seized thereof, in Fee or Fee Tail. And this Defendant being so seized in Trinity Term in the 26th year of his now Majesties Reign, levied a Fine *Sur Conuzance de droit come ceo*, with Ploclamations of the said

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said Manors of T. and the said Messuages, Lands and Tenements in K. and several other Manors and Lands, as by the same remaining of Record in his Majesties said Court of Common Pleas at *Westminster*, may appear. And this Defendant doth aver, That neither the Complainant nor any of his Ancestors did enter into or claim the said Premisses, or any part thereof, or commence any Suit within five years next after the respective Fines levied by this Defendant and his said Grandfather. All which matters this Defendant doth aver to be true, and pleads the same in bar to the Complainants said Bill, and humbly craves the Judgment of this Honourable Court whether this Defendant claiming in the fourth discent from his Grandfather, who absolutely purchased the Inheritance of part of the Premisses for above sixty years since, and the Reversion and Inheritance of the residue above one and forty years since, and under whose Title the possession hath ever since quietly gone, shall be compelled especially after such Fines with Proclamations on non-claims, to make any other Answer, or to give the Complainant any farther discovery of his Title, or of any other matters of the Bill, saving that for Answer to the residue of the said Bill, this Defendant saith, The Complainant being very aged, and a *Pauper*, and this Defendant being threatned with a Suit, and not having looked into his Title, nor advised thereon, true it is he this Defendant

or

Answer.

or some on his behalf offered the Complainant the Sum of but not if he would release his right to the Premisses, which offer was refused, and this Defendant not having made such offer out of any apprehension that the Complainant had any Title thereto, but meerly for peace sake, doth now refuse to perform the same, being well assured, That this Bill (wherein there are scandalous Reflections on this Defendant, as to pretended extravagances and incumbrances) is brought by the means or instigation of some persons who have brought many Suits against this Defendant to pry into his Estate and Title to create more, and thereby have put him to very great charges and expences, and denieth any other than as aforesaid, or that he this Defendant ever acknowledged that the inheritance of the Premisses, or any part thereof, or any Estate or Interest therein did belong to the Complainant, or that he this Defendant at any time seemed to be willing to convey the same, or to deliver any Deeds, Writings or Evidences to the Complainant, but justifieth the keeping of such Deeds and Writings, as he hath for the reasons in his Plea, and prays to be hence dismissed with his Costs.

The Plea of *T. W.* Defendant to the Bill
of Complaint of *J. C.* Complainant.

*The Defendant Pleads the Statute of Frauds
and Perjuries in Bar to the Complainants
Bill.*

THIS Defendant by Protestation not Sect. 22.
confessing or acknowledging all or
any of the matters in the Plaintiffs Bill
contained to be true, in such manner as the
same is therein and thereby set forth, saith,
That he is advised That the Plaintiff by
his said Bill seeks to have a discovery of a
supposed Marriage Agreement or Promise
suggested to be made by the Defendant
in *August*, in the year of our Lord, one
thousand six hundred and eighty four, or
at some time since, to pay unto the Com-
plainant the Sum of one hundred pounds,
as a Marriage Portion, upon the Plaintiffs
Marriage with *M* his late Wife, deceased,
and to be relieved thereupon. To which
discovery and relief, This Defendant, as ad-
vised, doth plead, and for Plea thereunto
saith, That by a Statute or Act of Parliament
made in the 29th year of the Reign of our
late Sovereign Lord King *Charles* the second,
of ever blessed Memory, Entituled, an Act
for Prevention of Frauds and Perjuries. It
is, amongst other things Enacted, That
from and after the 24th day of *June*, in
the year of our Lord, one thousand six hun-
dred

dred seventy seven, no Action shall be brought whereby to charge any person upon any Agreement made upon consideration of Marriage, unless the Agreement upon which such Action shall be brought or some *Memorandum* or Note thereof shall be in Writing or signed by the Party to be charged therewith, or some other person thereto by him authorized, or to that very effect, which Statute, and particularly the said Clause therein this Defendant doth plead in Bar of the Plaintiffs demands the Plaintiff not suggesting that the Agreement or Promise by his Bill suggested to be made, was ever put in Writing and signed by this Defendant or by any other person by his Order. And this Defendant doth humbly demand the Judgment of this honourable Court, whether this Defendant shall be compelled to make any other or farther Answer thereto. And doth humbly pray to be hence dismissed, &c.

The

The Plea and Demurrer of E. C. and D. B.
Defendants to the Bill of Review of
J. M. Complainant.

The Defendants for Plea alledge Cause for not setting forth the Decree and dismissal truly, but alledging new and forreign Matters not in the Decree, and praying Proceſs generally to Answer and not to Review. For Demurrer ſay, There are no Errors in Law in the Body of the Decree or Diſmiſſion, nor any new matter in the Bill of Review, nor any Order for bringing the ſame, nor Allegations and Averments therein ſet forth, ſufficient Cauſes for reviewing or reverſing a Decree.

THE ſaid Defendants by proteſtation not confeſſing or acknowledging all or any the matters or things in the ſaid Bill contained to be true, in ſuch manner and form as the ſame are therein and thereby ſet forth; for Plea thereunto do ſay, That by the courſe and praſtiſe of this honourable Court, no Decree ought to be reviewed or reverſed by any original Bill or otherwiſe, than by Bill of review for Error apparent in the Body of the Decree or upon new matter come to the Parties knowledge after the making of ſuch Decree, and that by leave of the Court only; wherefore, and for that the ſaid Bill of review or original Bill, the ſame not ſetting

Pleas and Answers.

forth the Decree and dismissal truly, but alledging new and foreign matter, not contained in the Decree, and praying process generally to Answer and not to Review, they these Defendants do plead the said Decree and dismissal, which are in these words following, (*viz.*) [Set forth the Decree *Verbatim.*] As by the said Decree and dismissal remaining of Record in this Honourable Court, it may more fully appear. And these Defendants do demur to the said Bill, and for Cause of demurrer say, That the pretended Errors by the Plaintiffs Bill suggested to be in the said Decree and dismissal, or any of them, are not Errors in Law appearing within the Body of the Decree or dismissal, nor any sufficient matter in the Bill set forth to have come to the Complainants knowledge since the making of the said Decree for reviewing or reversing thereof, nor doth it appear by the Bill, That the Complainant had obtained an Order or leave of this Court to bring a Bill of Review or new matter; nor are the Allegations or Averments in the Bill set forth, sufficient Causes or grounds for reviewing or reversing a Decree. Wherefore, and for divers other imperfections in the said Bill appearing, these Defendants do demur in Law, and crave the Judgment of this honourable Court whether they shall be compelled to give any farther answer thereto. And pray to be dismissed with their Costs in this behalf most wrongfully sustained.

A Man takes Administration out of the Province of York, and Sues for a Debt due by a Debtor to the Intestate, who lives within the Province of Canterbury. The Defendant pleads as followeth. Viz.

THE Defendant by protestation, &c. for Sect. 23.

Plea thereunto this Defendant saith, That whereas the Complainant in his Bill of Complaint sets forth that he is Administrator of all and singular the Goods and Chattels, Rights and Credits of *J. W.* in the Bill named, with Letters of Administration the Complainant obtained out of the Prerogative Court of *York*, in which Province the chiefest part of the Estate of the said *J. W.* lyes, in the hands of several persons, and in the hands of several other persons lying in remote places, and amongst the rest, That some part of the Estate of the said *J. W.* lyes in the hands of this Defendant, who lives near *L.* in the County of *L.* That he was Debtor to the said *J. W.* in his life-time, in the Sum of one hundred and fifty pounds, and that the said Plaintiff is intituled thereunto, and to the whole personal Estate of the said *J. W.* by force and virtue of the taking the same Letters of Administration, out of the said Prerogative Court of *York*. And the scope of the Bill is to have an Account from this Defendant of the said Sum of one hundred and fifty pounds. Unto which

said Bill this Defendant is advised he ought not to Answer, and for Plea thereunto saith, That the Complainant by his said Bill of Complaint doth not make any Title to himself unto the said one hundred and fifty pounds, if any such there be remaining in the hands of this Defendant, and therefore ought not to call this Defendant to an account for the same; for it appears by the Complainants Bill, that he hath only taken out Letters of Administration out of the Prerogative Court of *York*, of the Goods and Chattels, Rights and Credits of the said *J. W.* which can only intitle him to the personal Estate of the said *J. W.* which lyes within the Province of *York*, but not to any part of the Estate of the said *J. W.* lying within the Province of *Canterbury*, and it appearing of the Complainants own shewing in his said Bill, That this Defendant liveth near *L.* in the County of *L.* as in truth he doth and hath done several years last past, and *Lincoln* being within the Province of *Canterbury* and not within the Province of *York*, and so the Debt pretended by the Bill to be due from this Defendant to the said *J. W.* if any such be, being due from this Defendant within the Province of *Canterbury*, the Complainant cannot be intituled thereto, without taking forth Letters of Administration out of the Prerogative Court of *Canterbury*, of the Goods and Chattels, Rights and Credits of the said *J. W.* for which cause this Defendant humbly prays
the

the Judgment of this honourable Court, whether he shall make any answer to the said Bill, and prays to be hence dismissed with his reasonable Costs in this behalf most wrongfully sustained.

The Plea of T. W. Defendant by T. B. his Guardian to the Bill of Complaint of W. A. Esq; Complainant.

THE said Defendant by his Guardian A Plea of Out-lawry. not confessing or acknowledging any the matters or things in the said Bill of Complaint contained or alledged against this Defendant to be true, in such manner and form as the same are therein set forth. And saving to himself now and at all times hereafter, all manner of Advantage and benefit of Exception to the incertainties, defects, insufficiencies and imperfections of the said Bill of Complaint; for Plea thereunto this Defendant by his Guardian saith, under favour of this Honourable Court, That as he is advised by his Council, that persons lawfully put in Exigent and Outlawed by the Common Laws of this Nation, for any matter or cause whatsoever, are, during the time of their so standing Outlawed and the Outlawry unreversed, disabled to commence or prosecute any Suit or Action at the Common Law or in Equity against any person or persons in any of their Majesties Courts at *Westminster*, so far forth that the person or persons against whom

such Suit or Action shall be commenced, may lawfully plead such Outlawry in bar of such Action or Suit. And farther this Defendant by his said Guardian saith, That the now Complainant *W. A.* now standeth Outlawed in their Majesties Court of Common-Pleas at *Westminster*, by the name of *W. A.* at the Suit of the Defendant, in a Plea of Trespass, as in and by the said Outlawry hereunto annexed, to which this Defendant by his said Guardian humbly prays he may refer himself, relation being thereunto had, it may more fully appear. And this Defendant doth aver, That the said Complainant and the said *W. A.* so Outlawed, as aforesaid, is one and the same person, and not divers. And therefore the said Defendant by his Guardian, for the cause and reason aforesaid, doth by way of Plea abide in Law thereupon resting in and upon the grave Judgment of this honourable Court, whether he for the present shall be or ought to be by the Rules of the Law, compelled to give any farther or other Answer to the said Bill of Complaint, or any of the matters or things therein contained. All and every of which said matters he this Defendant by his said Guardian will be at all times ready to answer and prove as this most honourable Court shall award. And humbly prays to be hence dismissed with his reasonable Costs in this behalf most wrongfully had and sustained.

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*The Plea of W. J. one of the Defendants to
the Bill of Complaint of W. C. Complain-
ant.*

THE said Defendant not confessing or
acknowledging all or any the mat-
ters or things in the Bill of Complaint con-
tained to be true, in such manner and
form as in and by the Bill of Complaint
is supposed; for Plea thereunto the said
Defendant saith, That the aforesaid *W. C.*
(Setting forth the several matters in the Bill
mentioned, *viz.*) the day of
in the year of our Lord, 1689. by a
certain Writing of Release bearing date
the same day and year, which the said
W. J. produceth here in Court; by the name
of *W. C.* of *London*, Gent. for good Consi-
derations him thereunto moving, did, for
him, his Heirs, Executors and Administra-
tors, remise, release, and for ever quit
claim unto the said Defendant by the name
of *W. J.* of *London*, Gentleman, his Heirs
Executors and Administrators, all and all
manner of Actions, Suits, Quarrels, Recko-
nings, Accounts, Debts, Dues, Duties, Bills
Bonds, Sum and Sums of Mony and De-
mands whatsoever, from the beginning of
the World until the day of the date of the
said Writing of Release, as by the same
may appear; and this he is ready to prove
and thereupon demandeth Judgment, if he
the said Defendant shall make any farther
Answer

Sect. 24.
A Release
pleaded.

Answer unto the said Bill of Complaint, and humbly prays to be hence dismissed with his reasonable Costs and Charges in this behalf most wrongfully had and sustained.

The several Answer of Sir E. D. Knight, one of the Defendants to the Bill of Complaint of the Right Honourable Margaret, Lady S. Widow of the Right Honourable J. Lord S. deceased.

**See the Bill to
this Answer
before among
the Bills of
the second
part.**

THE said Defendant saving and referring to himself now and all times hereafter, all Advantage and benefit of Exception to the manifold Incertainties and Imperfections of the Complainants said Bill, for Answer thereunto or unto so much thereof as materially concerneth this Defendant (as he is advised) to make Answer unto, answereth and saith, He believeth the Complainant may be one of the Daughters of *James* late Earl of *Salisbury*, and that she may be intituled by virtue of the Will and Settlements of the said late Earl, to a Portion of ten thousand pounds, as in the Bill is mentioned, and payable as is therein also mentioned; To which said Will and Settlements this Defendant refers himself for more certainty. And this Defendant farther saith, That after such or the like Act of Parliament (for enabling such persons Trustees in the said Act named, to sell such part of the Estate of the said late Earl of

of *Salisbury*, for payment of such Debts, Portions and other Sums of Mony therein mentioned) was procured and passed, as in the said Bill is set forth, this Defendant did agree and contract for the Purchase of the Manor of *A. L.* and divers Lands and Hereditaments in the Parish of *Chestbunt*, in the Bill mentioned, for seventeen thousand five hundred pounds, which said Sum this Defendant believes was by the Trustees named in the said Act appointed to be paid in such proportion and to such several persons, as in the Complainants Bill is mentioned, and particularly the Sum of five thousand two hundred seventy seven pounds ten shillings, was appointed to be paid to *John Lord S.* who was then intermarried with the now Complainant, and since deceased; but as touching the intention of *James* now Earl of *Salisbury*, and of the Trustees in the Bill named, that the same Mony should not be paid to the said Lord *S.* until he had made such Settlement on the Complainant as in the Bill is mentioned, or what discourses were between them relating to the said Settlement, or of the Lord *S.*'s being sued to compel him to make the same, this Defendant is a stranger thereto. But this Defendant saith, That there was a meeting appointed at *Salisbury-House* before the Lord *S.*'s death, touching this Defendants paying of his Purchase-Mony; and this Defendant hearing that *C. S.* in the Bill named was to receive part thereof, this Defendant appointed the said *S.* to be present

sent at the said meeting, and the Lord *Salisbury* being acquainted that the said Mr. S. did attend accordingly, after some time a person was sent out of the Room by the Lord *Salisbury* to tell Mr. S. who was in another Room, that the other persons who were to receive the Purchase-Mony, were not present, and therefore nothing could be then done, or to that effect. And this Defendant saith, That upon a farther discourse then had with Mr. S. and Mr. F. two of the Trustees, touching the said five thousand two hundred and seventy seven pounds and ten shillings, they, together with the said Earl of *Salisbury*, did forbid this Defendant to pay the same to Mr. S. or to any other, till farther Order, or to that effect. And at another time after the report of the Lord S.'s death, when this Defendant paid other persons that were to receive other parts of the Purchase-Mony, this Defendant was again by the said Earl of *Salisbury* and the two Trustees aforesaid, forbid the payment of the said Mony to the said Mr. S. or any other person, or to that effect. And this Defendant saith, That afterwards, as he believes, the other Defendant J. F. on his serving a Subpœna on this Defendant to Answer the now Complainants Bill, might tell this Defendant that he should not pay the said Mony payable to the Lord S. otherwise than as the Court of *Chancery* should order or direct, or to that effect. But this Defendant doth not remember that the said Mr. F. or any other person ever de-

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demanded the said Mony of this Defendant on the part of the said Complainant. And this Defendant believes he might say to the now Lord *Salisbury*, after this Defendant had been forbidden to pay the said Mony as aforesaid, that he this Defendant would not pay the said Mony, until he had first acquainted the Lord *Salisbury* with it, or words to that effect. And this Defendant saith, That notwithstanding the Conveyances were executed at such time as in the Bill is mentioned, yet this Defendant denies that he retarded the perfecting of the said Conveyances, or refused payment of the Purchase-Mony, but was ready to pay the same, in case these differences which did arise touching the payment thereof had been settled. And this Defendant doth confess, That he having employed Mr. *E.* and Mr. *W.* in transacting the said Purchase, and preparing the Purchase Deeds, this Defendant believes the Deeds were left in the hands of the said Mr. *E.* and *W.* or one of them. and this Defendant saith, That differences arising touching this Defendants payment of the Purchase-Mony, he confesseth there was a meeting at Sir *A.K.*'s in the Bill mentioned, but there was not then any accommodation of the differences; and the Lord *Salisbury* being then accused of some matters, on which accusation he was then in Custody, and although this Defendant might hear the Earl was innocent of it, yet this Defendant was advised by his Counsel it was not safe for him to pay the said Mony

Mony until the Earl was discharged. And this Defendant denies he ever declined the said Purchase, but was always willing and ready to pay the said Purchase-Mony to the several persons who ought to receive the same, when ever this Defendant could safely pay the same. And this Defendant saith, That the said C. S. after the report of the Lord S.'s death, having shewed this Defendant some Letter or Order to receive the said Mony, or part thereof, and having made a demand of the same of this Defendant, and having Exhibited his Bill in this Court against this Defendant for the same: And this Defendant having likewise heard of some right or title the now Complainant pretends thereto, he this Defendant was advised it was not safe to pay the said Mony, until the pretences of the said Parties were first determined; and therefore this Defendant submits himself to this honourable Court, to whom he ought to pay the said five thousand two hundred seventy seven pounds, ten shillings, he having kept such a Sum by him, without making any interest of the same, always ready for that purpose, and is ready to pay the same to such Person as this Honourable Court shall direct, he being indemnified for so doing, and being legally discharged thereof, and paid his Costs of this Suit, and of the said Suit brought against him by the said C. S. And this Defendant denies the Combination charged in and by the said Bill, without that, that, &c.

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The farther Answer of the same Defendant.

THIS Defendant saving as in his former Answer he hath already saved, for farther Answer to the said Complainants said Bill of Complaint saith, That an Act of Parliament being passed for the Sale of the Estate of *James* late Earl of *Salisbury*, deceased, for payment of the said several Sums of Mony in the said Act particularly mentioned. This Defendant did Contract for the Purchase of the Manor of *A.* and other Lands and Tenements in the Parish of *C.* in the Bill mentioned, for the Sum of seventeen thousand five hundred pounds, which was by the Trustees in the said Act named, appointed to be paid in such manner as in the Bill is set forth; and particularly the Sum of five thousand two hundred seventy seven pounds, ten shillings, was to be paid to the Right Honourable *John* Lord *S.* since deceased. And this Defendant farther saith, That Conveyances were executed accordingly, by the Earl of *Salisbury* and the Trustees, on or about the 6th day of *May*, 1692. And this Defendant farther saith, That the said Earl of *Salisbury* was the next day (to the best of this Defendants remembrance) committed to the Tower, but the particulars of the Accusation, or the Crime laid to the charge of the said Earl, this Defendant knows not, but hath heard that the said Earl was not Guilty of

of the matters whereof he was accused. And this Defendant confesseth, That some time after the said Earl was so Committed to the *Tower*, as aforesaid, there was such meeting at the House of Sir *A. K.* as in the Bill is alledged, between the persons in the Bill for that purpose named, and this Defendant believes he may have heard the said Earl was bailed out upon Security to appear at the *Kings-Bench*, as in the Bill is mentioned; but this Defendant believes that the said Earl was not absolutely discharged until the last day of *Michaelmas* Term last, and this Defendant being advised by his Council, he could not safely pay his Purchase-Mony, till the said Earl was finally discharged of his said Imprisonment, This Defendant confesseth, that he did not pay any part of the Purchase-Mony, until the thirtieth day of *November* last. And this Defendant confesseth, That at the said meeting at Sir *A. K.*'s House, there might be such or the like Proposals as in the Bill, but nothing was agreed upon, none of the said Persons being willing to run any hazard of the loss of the said Mony. And this Defendant believes that the said Trustees and their Counsel might thereupon at that time press this Defendant to quit the said Purchase, and re-convey his said Estate, affirming there were several Persons that were desirous to buy the same, and give as much or more than this Defendant, notwithstanding such Accusation and Imprisonment of the said Earl:

But

But this Defendant acknowledgeth he did, refuse to re-convey the said Estate, having kept the Purchase-Mony in his Hands a considerable time, and being then willing and ready to have paid his Mony, if he could have done it safely. And this Defendant believes he might be told, That a Bill should be forthwith filed against him, to compel him to proceed or quit the said Purchase. And this Defendant farther saith, That true it is, That some time after the said meeting, this Defendant was informed that Mr. C. and Sir W. F. had commenced a Suit in this Court against this Defendant, to compel this Defendant to pay them their shares of the Purchase-Mony, or to re-convey the said Purchased Premisses to the said Trustees, or to some such effect, as in the Bill is alledged. And this Defendant believes he might be served with Process to appear and answer the said Bill, and that an Attachment might issue against this Defendant for not answering the said Bill; but upon this Defendants declaring to Mr. F. that this Defendant doubted not but to agree the matter, or to that effect, the said Mr. F. promised this Defendant, that no advantage should be taken thereof, or to some such effect. And soon after the said matter was agreed, and the said Mr. R. C. and Sir W. F. were paid their proportions or shares of the Purchase-Mony accordingly. And this Defendant saith, That by reason of such disputes the perfecting the Purchase was delayed, and there arising farther disputes between

the said Earl of *Salisbury* and this Defendant, touching the Interest of the Purchase-Mony, a meeting was appointed at *Salisbury* House, on or about the three and twentieth day of *November* last, and C. S. in the Bill named claiming some part of the Purchase-Mony, by virtue of some order or appointment from the Lord S. as the said S. affirmed, this Defendant acquainted the said S. with the said meeting, who accordingly attended at *Salisbury* House, but the Parties not meeting according to their appointment, nothing was done at that time. And the Lord *Salisbury* did then and not before (to the best of this Defendants remembrance,) forbid this Defendant to pay any of the Purchase-Mony to the Lord S. or his order; and this Defendant did thereupon promise the Lord *Salisbury* that he would not part with any of the Mony out of his Hands, without first acquainting him the said Lord *Salisbury* or the Trustees, or some of them therewith. But this Defendant doth not remember that the said Earl or the Trustees, or any of them declared the Lord S. should not be paid till he had made a Settlement, or that they would have sued him to compel him to make such Settlement but for his Priviledge of Parliament, or that they the said Lord *Salisbury* and the Trustees, or any of them, did then or at any other time make such or any other declaration to the effect in the Bill, in this Defendants presence (to the best of this Defendants remembrance.) And this Defendant

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dant farther saith, That a second meeting being appointed on 'or about the thirtieth day of *November* last, in order to settle the differences between the said Earl of *Salisbury* and this Defendant about the Interest, and in order to pay the Purchase Mony, as was appointed to be paid by the Deeds of Purchase, This Defendant to prevent disputes for the future, and that he might quietly enjoy the Estate so Purchased by this Defendant, did allow the said Earl of *Salisbury* a considerable Sum of Mony for the Interest of the whole Purchase-Mony, the said Earl (to the best of this Defendants remembrance) alledging that he was not obliged to pay Mr. C. Sir *W. F.* or the Lord *S.* till *December* then next. But how the matter between them was agreed, this Defendant knows not. And this Defendant saith, That all disputes about Interest betwixt this Defendant and the said Earl of *Salisbury* were adjusted that evening, and this Defendant was then informed that the Lord *S.* dyed in the morning of the same day. And this Defendant did at the same time pay Sir *W. F.* and Mr. C. their proportions of the Purchase-Mony, by delivering to them Goldsmiths Notes for the same, payable to themselves or Bearer; and this Defendant at the same time gave his own Note to the said Earl of *Salisbury* for the Interest-Mony, and gave a Goldsmiths Note to Mr. *W.* to give to the Arch-Bishop of *Canterbury*, for his share of the Purchase-Mony, upon his executing the Conveyances.

veyances. And this Defendant knows nothing of Mr. C.'s and Sir *W. F.*'s refusing to accept him this Defendant for their pay-Master. And this Defendant saith, That this Defendants said Purchase-Mony lay at the Goldsmiths ready to be paid at the time the Conveyances were executed. And this Defendant had taken the Goldsmiths Notes for the Monies payable to the respective Parties, who were intituled to receive the same. But the said Earl being committed to the *Tower*, this Defendant did some time after cause the same to be changed into this Defendants own Name. And this Defendant did about nine days before the said disputes were ended, and Mony paid as aforesaid, take the said Notes which were then delivered to the said several persons, as aforesaid, in the said persons Names. And this Defendant saith, That the same night the said disputes were ended and the Monies paid as aforesaid, and not before, Mr. C. and Sir *W. F.* did execute such Conveyances, and the said Earl of *Salisbury* and the said Trustees did then consent the said Conveyances should be delivered to this Defendant, this Defendant not desiring to have them before. And this Defendant did then and thereupon execute a Counterpart thereof, and directed Mr. *W.* to carry the Conveyances the next day to *Lambeth* to the Arch-Bishop of *Canterbury*, to be executed by him, and to take his Graces Receipt for his share of the Purchase-Mony. And this Defendant saith, That he was not present

present when the Receit Indorsed on the said Conveyances was subscribed by the Lord S. but this Defendant believes he might about the time in the Bill mentioned, hear Mr. E. in the presence of Mr. S. one of the Trustees, speak of carrying the Conveyances to the Lord S. and Mr. S. not opposing it, this Defendant was satisfied therewith, and believes the said Conveyances were accordingly carried. And this Defendant acknowledgeth, That the Lord S. and Mr. R. pressing this Defendant for the Mony payable to the Lord S. before the Lord *Salisbury* was discharged from his Imprisonment, and the disputes between him and this Defendant ended, this Defendant did refuse to pay the same, and for the same reasons did refuse to pay to Mr. S. the Monies demanded by him, when he applied himself to this Defendant for the same, but the certain times when, this Defendant doth not remember. And this Defendant doth not remember, that either the said Lord S. or Mr. S. or either of them, or any person on their or either of their behalf, offered this Defendant any abatement, or gratuity, in consideration of him this Defendants paying them or either of them the said Mony. But this Defendant confesseth, That some time after the death of the Lord S. Mr. S. offered to give this Defendant Security to save him this Defendant harmless, if this Defendant would pay the Monies to him, but this Defendant refused to pay the same to him, for that

this Defendant had been forbid by the Earl of *Salisbury*, to pay the Monies either to the Lord S. or Mr. S. And this Defendant had promised the said Earl not to part with the said Mony without acquainting him the said Earl or the Trustees therewith. And Mr. F. afterwards also served this Defendant with a Subpœna to answer a Bill in this Court, at the now Complainants Suit, and had also forbid this Defendant to part with the Mony, without the Order of this Court. And this Defendant believes that the Conveyances after they were executed, were left in the Hands of Mr. E. and Mr. W. and this Defendant never demanded the same of them, until after he had paid all his Purchase-Mony, except such part thereof as belonged to the Lord S. And knows of no Agreement that the said Conveyances should lye in the Hands of the said Mr. W. and Mr. E. in Trust for all Parties, nor remembers that there was any discourse to such effect, or any such thing mentioned. And this Defendant doth not remember any discourses between the Earl of *Salisbury* and Mr. S. and Mr. F. in the Bill mentioned, or any of them, about keeping private or concealing from the Lord S. what Mony was appointed to be paid to him, nor what debates might arise about the same. But this Defendant believes, That upon his asking the said Earl or some of the Company what he should do with the five thousand and odd pounds in his Hands, they or some of them told him he must

must keep it till farther Order from them, or to that effect, and believes that the said persons, or some of them might then say, that the said Mony was part of the Lady *Stawels* Portion, but doth not remember that the said Persons, or any of them, said that the Lord *Salisbury* had a right to retain the same, in regard there was no Settlement made upon her, or words to that effect. Without that, that, &c.

The farther Answer of C. S. and E. S. Esqs two of the Defendants to the Bill of Complaint of the Right Honourable M. Lady Stawel, Complainant.

THE said Defendants for farther satisfaction of this Honourable Court, for Answer to the several Exceptions taken by the Complainant to their former Answer, say, as they are advised, That their former Answer by them put in to the said Complainants Bill, is sufficient to all the material charges thereof, howbeit they these Defendants and either of them, for a farther Answer thereunto say, They did not know, hear, or were informed until some few days before the death of the Lord *Stawel*, that the Conveyances to Sir *E. D.* were executed by the Earl of *Salisbury* and the Trustees, nor do they know or did hear, or were informed of the time when the said Deeds were so executed by the said Earl and Trustees, or whether in the

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Month of *May*, or any other time, save as
aforesaid; nor how long before the Pur-
chase-Mony was paid, nor do these De-
fendants or either of them know or were
informed the certain time when the said
Earl was committed to the *Tower*, nor whe-
ther the Conveyances were executed the
same day the Earl was committed to the
Tower, or any other day, nor when he was
Bayled, but they heard he was discharged
in or about *Michaelmas*-Term last. And
these Defendants say, They did hear Sir
E. D. did after the said Earls commitment
refuse to pay the Purchase-Mony, but the
certain time when they heard the same,
or from whom, they these Defendants or
either of them say they can't remember.
And these Defendants and either of them
farther say, they did not know, hear or
were informed by Mr. *W.* or any other
person, after the said Lord *Salisbury* was
discharged, nor till after the Lord *S.* his
death, that the said Earl did insist, that
Sir *E. D.* ought to pay interest for all the
Purchase-Mony, from the executing the
Conveyances until it should be paid; nor
do these Defendants or either of them know
or were informed how long the said dis-
putes about the Interest lasted, or conti-
nued, or what the debates were touching
the same, nor doth it any way concern
them, as they conceive. And these De-
fendants and either of them say, they do
not know nor were informed by Mr. *W.*
or any others, that *R. C. Esq;* and Sir *W. F.*
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would not accept of the said Sir E. D. for their Pay-master, and discharge the Trust Estate, nor do these Defendants know or have been informed otherwise than by the Complainants Bill, of any Bill or Suit in this honourable Court, by them the said Mr. C. and Sir F. W. brought, that they might be satisfied their Portions out of the Trust Estate. And these Defendants do severally say, they do not know, have heard or were informed by Mr. W. or any other person or persons, or otherwise than by the Complainants Bill, that the Conveyances to Sir E. D. did remain deposited in the hands of Mr. J. W. and Mr. T. E. in trust for the benefit of all parties concerned therein, and to be delivered out either to the said Sir E. D. or to the said Earl of *Salisbury* and the said Trustees, according as they should afterwards agree among themselves, as by the Bill is set forth and pretended, or upon any other account whatsoever. And these Defendants farther severally say, they did not know, hear, or were informed till after the death of the Lord S. of Mr. W. or any other person, of the meeting at Sir A. K.'s nor do know what matters or business were there treated or advised on behalf of Sir E. D. the said Earl and Trustees, or any of them, nor of depositing the Purchase-Mony in a third persons Hands, until the said Earl should be discharged, or be lent out to the Exchequer, nor what Scruples the said Sir E. made, or that he would not pay the Purchase-Mony till

till the said Earl was finally discharged ; nor do these Defendants know or were informed what was then agreed or not agreed to by the said Parties nor any of them, or that their Council did press the said Sir E. D. to quit the said Purchase, and re-convey the said Estate, or that there were other persons that were desirous to buy the same, nor were these Defendants informed that Sir E. D. was then or at any other time told a Bill should be filed against him, to compel him either to quit the Purchase or proceed therein, nor did these Defendants know, hear, or were informed till after the death of the Lord S. by Mr. W. or any other, that a Suit was commenced against Sir E. D. by Mr. R. C. and Sir W. F. or any other person, to compel him to pay them their shares of the Purchase-Mony, or to re-convey the Premisses to the Trustees or quit the Purchase, nor did these Defendants know or were informed that any Bill was filed, or any proceedings made in the same Suit, or of any Attatchment taken out against the said Sir E. D. or that he was several times told by the Trustees in the Bill named, or any other, that he should be Arrested thereupon. And these Defendants and either of them farther say, they do not know, nor were informed by Mr. W. or any other, that Sir E. D. did decline the said Purchase ; but these Defendants confess, they did hear and were informed that Sir E. D. had Mony lay ready in Goldsmiths Hands, for the paying the

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Purchase-Mony so soon as the Lord *Salisbury* was discharged, but the precise time when they were so informed, or by whom, these Defendants cannot remember; nor do these Defendants know, have heard, or were informed that Sir *E. D.* did, after he heard of the said Earls Imprisonment, deliver up the said Goldsmiths Notes, and took other Notes to himself, or disposed of the said Mony or any part thereof for other purposes, or whether he did not take any Goldsmiths Notes afterwards, till he and the Earl had ended their disputes about Interest. But this Defendant *S.* saith, That on or about the three and twentieth day of *November* last, when the said Sir *E. D.* came to this Defendants Shop, and did appoint him to meet in the same Afternoon, at *Salisbury-House*, about receiving the Mony so assigned to him by the Lord *S.* he the said Sir *E.* then told this Defendant he had taken Goldsmiths Notes for some of the said Purchase-Mony; but these Defendants severally say, they know not, have heard, or were informed, otherwise than by the Complainants Bill, when the disputes about Interest between the said Earl, and the said Sir *E. D.* were ended. And these Defendants and either of them farther say, they do not believe, or have heard, or been informed that when Mr. *E.* carryed the Conveyances to the Lord *S.* to be executed, that he signed a Receipt indorsed thereupon, for his part of the Purchase-Mony, that it was all done without the privity, knowledge

knowledge or consent of the said Sir E.D. the Earl of *Salisbury*, or the said Trustees, or any of them, but these Defendants do severally say, they believe and doubt not but it will be made appear: that the said Deeds were so carried by Mr. E. and the Receipt made and all got executed by and with the direction, consent or knowledge of the said Sir E. D. the said Earl and Trustees. And this Defendant S. farther saith and denieth he had private or any intimations from the said Mr. W. or E. D. or any other, how the said Purchase proceeded, or what likelihood there was of accommodating any disputes relating thereunto, till in or about the Month of *November* last. And this Defendant S. saith, he did after the three and twentieth of *November* last, and not before, when he had the Lord S.'s farther Order, several times earnestly request the said Sir E. D. to pay the said five thousand two hundred seventy seven pounds ten shillings to him: And he did hear that Mr. R. had often before pressed Sir E. to pay the said Mony to the Lord. S. But this Defendant S. denies that he, or the said Mr. R. or any other to his knowledge or with his privity or direction, either before or after the Lord S.'s death, did offer the said Sir E. D. any manner of abatement, allowance or gratuity, if he would pay the said Mony. But this Defendant believes that Sir E. D. was more cautious and fearful of trouble than he had any just reason for, and that made him de-

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delay and refuse to pay the said Mony to this Defendant, although he safely might and ought to have paid the same, as this Defendant is advised and humbly conceives. And these Defendants severally deny they made any application to the said *W.* and *E.* or either of them to produce the Deeds for the Lord *S.* to execute; but this Defendant *S.* saith, notice was sent him, and as he remembers, Mr. *R.* did also leave word for this Defendant to attend on Mr. *E.* on the said two and twentieth of *November* last, to see the Lord *S.* execute the said Conveyance, and accordingly he saith he did go with Mr. *E.* and did see the Lord *S.* execute the said Conveyance in manner as this Defendant hath in his former Answer set forth, And as this Defendant remembers and believes, he heard and was informed that the Lord *S.* did himself then send to the said Mr. *E.* and Mr. *W.* to bring the said Conveyances to be executed by his said Lordship. And this Defendant *S.* denies he knew or was informed or heard otherwise than by the Complainants Bill, That the said Earl of *Salisbury* and *E. S.* and *J. F.* or any or either of them did endeavour to keep it private from the Lord *S.* and Mr. *R.* that they had appointed any part of the said Purchase-Mony to be paid to the said Lord *S.* or that therefore he was not desired to meet at Sir *A. K.*'s as by the Bill is pretended: But this Defendant saith he believes and doubts not but to prove the contrary thereof, and that the
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Lord S. and Mr. R. had notice long before the said Assignment made by his Lordship to this Defendant of the Mony in Sir E. D.'s hands, That the same was ordered and appointed by the said Trustees to be paid out of the said Purchase-Mony, to the said Lord S. or his Assigns, upon his executing of the said Deeds of Purchase to Sir E. D. as was done accordingly by his said Lordship, as this Defendant hath before set forth. And these Defendants farther severally say, They or one of them received the said Assignment of the ten thousand pounds Portion from the said Lord S. about a week after the same bears date, as near as these Defendants can remember. And the Defendant S. saith, the three thousand pounds by him lent to the said Lord S. was all paid to his order, and for his use, and more Monies were advanced and paid for him by this Defendant, before the date of the said Assignment of the said ten thousand pounds Portion. And both of these Defendants say, That the Defendant *Sheldon* did pay in the said one thousand pounds by him lent to the Lord S. by his Order to the Defendant S. some short time after the receipt of the said Assignment from the Lord S. but the exact time he cannot remember. And this Defendant S. saith, the said one thousand pounds so lent by the Defendant *Sheldon*, was afterwards really and *bona fide* paid by this Defendant S. by the order and for the account of the said Lord S. at the several times, and to the se-

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veral persons, and in manner as he this Defendant hath particularly set forth in his former Answer, and in the Accounts or Schedules annexed to this Defendants former Answer. And these Defendants severally answer and say, they were not present at the Sealing of the said Assignment of the said ten thousand pounds Portion by the Lord S. for that the same was duly sealed and executed by his Lordship in the Country, as these Defendants believe and doubt not to prove to this honourable Court. And the said Lord S. sent the said Assignment up with a Letter under his Lordships Hand, directed to this Defendant S. to satisfie him, That he the said Lord S. had according to the Agreement signed and executed the said Assignment, for the Security of the said Monies, so really lent and paid as aforesaid. And these Defendants and either of them say, they did not advance or pay any more Mony at the date, or on the receipt of the said Assignment from the Lord S. other than the sum of one thousand pounds, which was so lent and paid by the Defendant *Sheldon* in manner as aforesaid, to the Order and for the Account of the said Lord S. And these Defendants do severally deny that they or either of them were before or at the time of the delivery or executing the said Assignment, or at the time it bears date, or at any time before or after the date or delivery thereof, until after the death of the Lord S. told, did hear, or in
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any manner did apprehend or think that the Complainants Friends would dispute the payment of the said Portions, or any part of it, or that these Defendants or either of them should or would be hindred from receiving any part of the said Portion, until some time after the death of the said Lord S. and then they these Defendants say they heard the same from the said Sir E. D. as they well remember, who then, and not before declared, That the said Earl of *Salisbury* and some or one of the said Trustees, had directed or ordered him not to pay the said Mony in his Hands to this Defendant S. or any other, till farther Order from them the said Earl or Trustees, some or one of them, or words to the very same effect, howbeit these Defendants say, They were credibly informed and hope to prove to this Honourable Court, That the Complainant after the death of the said Lord S. and before she obtained Letters of Administration of his personal Estate, did declare she was well satisfied of the just dealings of the Defendant S. and of the Mony which was due to him, and therefore she the Complainant did then farther declare, she would give order to Sir E. D. to pay the said Mony in his Hands to the Defendant S. soon after she had taken out Letters of Administration of her said Lords personal Estate, or words to that or the same purport. And these Defendants say, they did thereupon rest satisfied and did forbear entring any Caveat as before they in-

intended and were advised to oppose the said Complainant in taking out such Letters of Administration, as they or one of these Defendants might lawfully have done, as they were advised. And these Defendants farther say, That the Defendant *Sheldon* did not deal with the Lord S. himself, as the Defendant S. hath understood by him, about lending the said Sum of one thousand pounds, but with Mr. *Reading*, his Council, who on the said Lords behalf did treat and agree with the said Defendant *Sheldon* about lending the said Sum, and did agree that his said Lordship should and would make such Assignment, as herein before is mentioned, for Security of the said Sum of one thousand pounds, and for the Security of the Monies so due to the Defendant S. as aforesaid. And these Defendants do confess they did hear or were informed that the said Lord S. had borrowed considerable Sums of Money for his buildings and other occasions, but how he was incumbered they did not know, nor had the said Lord S. any Cash then in this Defendant *Shales's* Hands; but they say they did not then believe nor were informed the said Lord was so much incumbered, as since they have heard and do understand. And these Defendants and either of them do say, That the Defendant *Sheldon* had not Cash to near the value of one thousand pounds in the Defendant *Shales* his hands, when he lent the said Sum to the said Lord S. but this Defendant

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fendant *Sheldon* saith, he called in Monies
 purposely and raised the Sum of one
 thousand pounds, and then paid or ordered
 it to be paid in to the Defendant *S.* for
 the Lord *S.*'s use in manner as aforesaid.
 And both these Defendants do deny that
 the Defendant *S.* did lend the said Sum
 of one thousand pounds to the said Lord
S. but the same Sum was so lent by this
 Defendant *Sheldon*, in manner as aforesaid,
 and was his own Mony. And these De-
 fendants do severally deny that it was
 agreed or that the Defendant *S.* did agree
 that all the Securities which he had from
 the Lord *S.* should be a Security to the
 said Mr. *Sheldon*, for his Monies which he
 so lent to the said Lord *S.* And these De-
 fendants do, and either of them doth deny
 that the said *S.* is any ways answerable or
 bound by any promise, agreement or other-
 wise to make good the said Monies, or
 any part thereof to the said Defendant
Sheldon, which he so lent to the Lord *S.*
 as aforesaid, nor did this Defendant *S.*
 ever make this Defendant *Sheldon* any pro-
 mise to make good the said one thousand
 pounds, or any part of it to him. And
 these Defendants and either of them do
 farther answer and say, That the said
John Lord *Stawel* was no otherwise in-
 debted unto them these Defendants or
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nexed, nor had these Defendants or either of them, any more or other claims or demands of the Lord S. at his death, other than as are set forth and expressed in their former Answer and the said Schedules thereunto annexed. But this Defendant S. saith, since the putting in his former Answer he hath truly paid six and twenty pounds for one years Rent for the Farm of Water-Baylyage, to the Officers of the City of *London*, they threatning to make void the Lease for the non-payment of the said Rent, and for that reason this Defendant S. did pay the said six and twenty pounds and took an Acquittance for the same, and humbly hopes he shall be repaid the same, by the Complainant, and that the Complainant will take order for the future to discharge the said Rent, and to indempnifie this Defendant from all trouble and damage that may happen to this Defendant, upon account thereof, or that this Defendant shall secure himself the best way he can by the said Lease, and hopes the Complainant will now take some course to see the said Rent paid for the future. And this Defendant S. farther saith, That all the Sums set down and charged in his former Answers and in the Schedules thereunto annexed, to the best of his knowledge are all the Sums of Mony which he ever received or paid upon account of the said Lord S. save only the said Sum of six and twenty pounds, since paid upon his account for the Rent of the Water-Bay-

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lyage Farm, as aforesaid. And this Defendant S. doth deny to the best of his knowledge or remembrance, that there was or were any other dealings, transactions or bargains between him this Defendant S. and the Lord S. and Mr. R. his Agent, or either of them, than what are mentioned and expressed in his said former Answer and the Schedules annexed thereunto, to which this Defendant refers, and in this his Answer set forth. And this Defendant S. farther saith and denies that there was any absolute Agreement between the said Lord S. and this Defendant for a fourth or other part or share in the said Farm of the Water-Baylyage, but only a proposal for his Lordship to grant to this Defendant one fourth part or share therein, paying a proportion of what his Lordship paid for the same, which this Defendant was then willing to have accepted and paid, but the said Agreement was never perfected nor any Grant or Assignment thereof made to this Defendant, nor did he or any to his use, to his knowledge, or for his account ever receive, take or had any of the Profits, Rates or Duties of the said Farm of the Water-Baylyage, nor can this Defendant set forth or give any account thereof. And this Defendant S. farther saith and denies that he had or made any other Dealings, Transactions, Contracts or Bargains with the said Lord S. or with the said Mr. R. about the Debts and Portions due to the Orphans and others from the
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City of *London*, other than as is mentioned in this Defendants former Answer, and is herein after expressed, That is to say, the Lord S. as this Defendant believes, having intrusted and employed the said Mr. R. to buy several of the said Orphans and others Debts, this Defendant believes the said Mr. R. accordingly did buy several Debts of several persons or Orphans, due from the City of *London*, for the Use and upon the Account of the Lord S. but how many, or the certain number of such Debts so by him bought, or what or how much he paid for them, this Defendant doth not know, nor can set forth, otherwise than as herein after is mentioned. And this Defendant believes the said Mr. R. did buy some of the said Debts in the name of this Defendant S. but the same was by him the said R. done and transacted without the privity, consent or knowledge of this Defendant S. only the said Mr. R. told this Defendant, That the said Lord S. did desire he might make use of **this Defendants** name in some of the **Assignments**. And this Defendant doth verily believe, That so many of the said Debts bought by the said Mr. R. in this Defendants name, were bought with the Mony of the Lord S. and in trust for him, for that the said Mr. R. did after he had bought the same (*viz.*) on or about the eighth of *August*, one thousand six hundred ninety and one, declare to this Defendant that he had Purchased several of the said Debts in this Defen-

dants name, in trust for the said Lord S. and then also declared it was his Lordships direction and order that this Defendant S. should assign the said Debts so bought in his name over to the said Mr. R. for his the said Lord S.'s use, and accordingly this Defendant saith he did on or about the eighth day of *August*, one thousand six hundred ninety one, go with the said Mr. R. to the Chamberlain's Office belonging to the said City of *London*, and did then and there consent and assign over, as the manner is there used, the several Debts following and no more, to the said Mr. R. and which are all the Debts which were bought or purchased as aforesaid, in this Defendants name to his knowledge or belief, and as appears by the Books in the said Chamberlains Office of the City of *London*, to which for more certainty this Defendant refers, which Debts are as followeth, (*viz.*) *June* the eleventh, one thousand six hundred ninety one, one R. S. assigned to C. S. of *London*, Goldsmith, as appears by the said Books, one thousand six hundred and fifty pounds, which this Defendant assigned to the said Mr. R. the eighth of *August*, one thousand six hundred ninety one, for which said Debt this Defendant believes Mr. R. did pay five hundred thirty seven pounds ten shillings, because he had such a Sum of Money of the said Lord S.'s Money about that time, as this Defendant finds by his Accounts, and as appears by the Schedules annexed to his

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his former Answer. And on the eighteenth of *June*, one thousand six hundred ninety one, one *W. C.* as appears by the said Books, assigned a Debt of five hundred and fifty pounds to this Defendant *S.* And on the seventeenth of *July*, one thousand six hundred ninety one, one *A. V.* as appears by the said Books, assigned a Debt of six hundred and seven pounds to this Defendant *S.* and the same day *R.* and *J. C.* as also appears by the said Books, did assign a Debt of one thousand eight hundred eleven pounds, seventeen shillings and six pence, to this Defendant *S.* but what or how much this Defendant *R.* paid for the said three last mentioned Debts, this Defendant saith he doth not know, nor was informed, nor can discover by any of this Defendants Accounts or otherwise; and which three last mentioned Debts or Sums this Defendant did on the said eighth day of *August*, one thousand six hundred ninety one, assign over to the said *Mr. R.* And on the eighteenth day of *July*, one thousand six hundred ninety one, one *O. C.* as appears by the said Books, did assign to this Defendant *S.* a Debt of four hundred pounds, which Debt this Defendant did also assign to the said *Mr. R.* on the said eighth of *August*, one thousand six hundred ninety one, and for which Debt the said *Mr. R.* paid, as this Defendant is apt to believe, the Sum of one hundred twenty two pounds four shillings, for that this Defendant finds he had such a Sum of the said Lord *S.*'s Mony about

the same time, as appears by the Accounts and Schedule annexed to this Defendants former Answer. All which said Debts or Sums of Mony so bought in this Defendants Name and assigned by this Defendant as aforesaid, to the said Mr. R. do now stand so entred in the said Books remaining in the said Office belonging to the Chamberlain of the said City of *London*, and not assigned, released, paid or any ways discharged, as this Defendant is informed and verily believes. And this Defendant saith, he did lately cause a Caveat to be entred in the said Books with one of the Clerks of the said Office, to prevent as much as lies in this Defendants power, that the said Debts may be secured, as also the Interest for the same, for the use of the Complainant. And this Defendant hopes the Complainant will take more effectual care to secure the same, the said Mr. R. being made a Defendant also in this Cause, to make him Account for the Interest, if he hath received any, for the said several Debts, and to assign or re-convey the same to the Complainant, or to whom she shall appoint, and to discharge this Defendant from the same. And this Defendant positively denies that he ever received any Interest or other Profits of or upon the account of the said several Sums of Mony, or Debts so Purchased as aforesaid, or any or either of them. And this Defendant S. also denies that he did agree with the said Lord S. or with Mr. R.

or

or either of them, or with any other person whatsoever, to be a Partner, or go any share in the Purchase of any of the said Debts with the said Lord S. or the said Mr. R. And this Defendant believes and hath been informed the said Mr. R. bought several other Debts of the Orphans and others, due from the said City, but this Defendant cannot set forth the particulars thereof, nor what he paid for the same, nor which were so bought by him in trust for the said Lord S. but must refer the Complainant to the Books in the said Chamberlains Office, and to the said Mr. R. who can discover the truth of all the said matters; For this Defendant S. saith, he was not privy or made acquainted by Mr. R. or any other person, to any of the Contracts made for the purchasing the same Debts, or any or either of them, nor did this Defendant act or meddle or treat in any of the said Bargains about buying the said Debts, but was altogether a stranger and unacquainted therein. And this Defendant S. farther saith, That he believes a farther reason why the said Mr. R. neglected to get this Defendants Accounts Stated and Signed by the Lord S. was for that the three hundred pounds which he pretended was due to him, not being included in the said Accounts, if the same had been then Stated and Signed, the said Mr. R. would have failed in his expectation of receiving, as he pretended he was promised by the Lord S. the said
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three hundred pounds out of the said Monies in the said Sir E. D.'s hands, when the same had been paid to this Defendant, as the said Mr. R. did seem to declare he was in hopes to have, but this Defendant absolutely refusing to charge the said three hundred pounds in this Defendants Accounts, or to intermeddle therein, the said Mr. R. seemed not well pleased, and therefore also did seem careless or negligent in getting this Defendants Accounts allowed by the said Lord S. as he might have done, as this Defendant verily believes, and knows of no other reason why the said Mr. R. refused or neglected to get this Defendant S. his Accounts Stated or Signed, without that, that, &c. And humbly prays as in their former Answer they have prayed.

The Answer of the Right Honourable M. Lady S. one of the Defendants to the Bill of Complaint of C. S. Complainant.

Attestat. super honorem preboronabil. M. Domine S. 17 die Julij, 1692.

THIS Defendant saving to her self all Advantages of Exception to the insufficiencies of the said Bill, for Answer thereunto saith, That her late Father, *James Earl of Salisbury*, deceased, did by his last Will and Testament in Writing, bearing date

date on or about the first day of *July*, one thousand six hundred seventy five, and one or more Coidils annexed thereunto, give and devise to this Defendant the Portion of ten thousand pounds, to be paid at her Age of eighteen years, or day of Marriage, which should first happen; and did appoint the same to be raised and paid out of a term for ten years, and one or more terms for ninety nine years, of and in divers Manors, Messuages, Lands, Tenements and Hereditaments, limited by the said Earl, for the raising of that and other Portions and Sums of Mony. And this Defendant saith, that she attained her Age of eighteen years before she inter-married with *John Lord Stawel*, lately deceased, and hath received two hundred fifty four pounds two shillings and six pence, in part of the said Portion. And this Defendant farther saith, That the remainder of the said Portion, being the Sum of nine thousand seven hundred forty five pounds seventeen shillings and six pence, was farther and better secured for the benefit of this Defendant, by a late Act of Parliament, made in the third and fourth years of the Reign of their present Majesties, Intituled *An Act for the better securing the Portions, Debts and Legacies given and owing by James late Earl of Salisbury*, but the said nine thousand seven hundred forty five pounds seventeen shillings and six pence, is not by the said Act made payable to the said Lord *Stawel*, as by the said Complainants Bill is pretended.

ed. By which said Act of Parliament the Messuages, Lands and Hereditaments purchased by the said Sir E. D. in the Bill named, together with divers other Lands and Hereditaments are vested in Sir W. B. Baronet, S. P. Esq; E. S. and J. F. and their Heirs, In trust (amongst other things) by Mortgage or Sale thereof to raise Money for satisfaction of the said remainder of this Defendants said Portion. And this Defendant saith, That she was prevailed with to Marry the said John Lord Stawel, on or about the twenty sixth day of April, one thousand six hundred ninety one, when she was under the Age of twenty one years, and that the said J. Lord S. dyed the thirtieth day of November, one thousand six hundred ninety two, intestate for ought this Defendant knoweth to the contrary. Whereupon this Defendant obtained Letters of Administration to be committed to her self, in the Prerogative Court of Canterbury, of the Debts, Rights and Credits of the said J. Lord S. as by the said Letters of Administration under Seal of that Court, more at large may appear. And this Defendant saith, That some of her Relations did before the said Marriage treat with the said Lord S. for the Settlement of a Joynture upon this Defendant, in case she survived him. And the said Lord S. did before the said Marriage, promise and agree to settle a Rent Charge of fifteen hundred pounds a year upon this Defendant, for her life, to be issuing out of

of all or a sufficient part of his Manors, Lands and Hereditaments. And this Defendant trusting to his performance of the said Agreement, did thereupon inter-marry with him, and after the said marriage until the time of his death, the Defendants Relations and also the said Trustees or some of them, and the Lord Arch-bishop of *Canterbury*, who was one of the Overseers of the Will of this Defendants Father, and their Councel and Agents, or some of them, did declare, That the said remainder of this Defendants said Portion should not be paid, or at least that part of it which was appointed to be paid out of the said Sir *E. D.*'s Purchase-Mony, until the Lord *S.* should settle the said Rent Charge, or some other sufficient Joynture on this Defendant, and the rather in regard the said Lord *S.* by reason of his Priviledge could not be compelled by any Suit to perform the same; of which matters so by them declared, the said Lord *S.* and the said Sir *E. D.* and Mr. *W.* and Mr. *E.* herein after named, or one of them had notice, as this Defendant believes. And the said Lord *S.* did several times during the said Marriage declare or promise, that he intended and would make the said Settlement. But it so hapned, That he dyed before he performed the same. And all his Manors and Lands are incumbred with very great Debts, as this Defendant is informed and believes, and the greatest part of them held by Leases and Copies of Court Roll, so that this Defendant

dant cannot have the benefit of Dower of and in the same Premisses, without great Suits and troubles, and the value of such Dower is very much less than the said Rent-Charge of fifteen hundred pounds *per annum*, agreed to be settled; wherefore this Defendant doth claim the said remainder of her Portion, and particularly that part of it, being the Sum of five thousand two hundred seventy seven pounds, ten shillings, appointed to be paid out of the said Sir E. D.'s Purchase-Mony, in her own Right and to her own use. And doth insist, That the said Sir E. D. ought to pay the said five thousand two hundred seventy seven pounds, ten shillings, to her this Defendant, and she is ready and willing to give him a Receipt and Discharge for the same, and humbly hopes that this honourable Court will allow her Interest for the same, from the time it ought to have been paid. And this Defendant farther saith, that she believes it to be true, That the said Sir E. D. did Purchase from the said Trustees the Messuages, Lands and Hereditaments in the Bill for that purpose mentioned, and hath heard that in the Conveyances thereof the said Sum of five thousand two hundred seventy seven pounds, ten shillings, part of the said Purchase-Mony, is appointed to be paid to the Lord S. and that the residue of the said Purchase-Mony is appointed to be paid in several proportions to this Defendants Brother, R. C. Esq; and to the said Lord Arch-bishop, and

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and to Sir *W. F.* in satisfaction of their demands by virtue of the said Will and Act of Parliament. But in case the said Sum of five thousand two hundred, seventy seven pounds, ten shillings, is so appointed to be paid, it was during the Minority and Coverture of this Defendant, and without her consent and privity, and ought not in Justice and Equity to have been paid to the said Lord *S.* until he had made the Settlement before-mentioned. And this Defendant is informed and doubts not to prove, That the said Trustees and this Defendants Brother, the present Earl of *Salisbury*, were so sensible thereof, that they made such appointment with an intent and design to induce the said Lord *S.* to make such Settlement, and that they or some of them or their Counsel, as also the said Lord Arch-bishop, did so declare unto the said Sir *E. D.* and the said Mr. *W.* several times to or in the presence of the said Sir *E. D.* and of the said Mr. *W.* at the House and in the presence of Sir *A. K.* and at other times and places, and forbid them to pay the same five thousand two hundred seventy seven pounds, ten shillings, to the said Lord *S.* till farther order. And that the said appointment of the payment of the said Sum of five thousand two hundred seventy seven pounds ten shillings, to the Lord *S.* was voluntarily inserted in the said Deeds by the said Trustees, without the privity or knowledge of the said Lord *S.* or this Defendant, to
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the intent that when they should make him acquainted with the same, they might prevail with him to make the said Settlement; and that they apprehended it was in their power to retract or alter the said appointment, in case he should refuse so to do. And this Defendant farther saith, That she is informed and doubts not to prove That the said Conveyances were executed by the said Earl and the Trustees, in or about the Month of *May*, one thousand six hundred ninety two, but that no part of the Purchase-Mony was then paid, for that it happened that the same or the next day the said Earl of *Salisbury* was committed to the *Tower* for High-Treason, which afterwards appeared to be grounded upon the Evidence of a person that was afterwards, by direction of their Majesties, prosecuted for the same, and convicted of Perjury. And saith, That she is informed and doubts not to prove, That by reason of the said Accusation and Commitment of the said Earl, the said Sir *E. D.* was advised by his Council not to proceed in the said Purchase, and declared he would not proceed therein, and thereupon altered the Goldsmiths Notes which he had prepared for payment of the Purchase-Mony, and made payable to the Parties who were to receive the same, and took new Notes for the same payable to himself, and that the said Mr. *R. C.* and Sir *W. F.* declared they would not accept of the said Sums so appointed to be paid to them for payment

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in discharge of their demands out of the Trust Estate, and that thereupon the said Conveyances were deposited in the Hands of the said *W.* and *E.* who were the persons that transacted the said Purchase between the said Sir *E. D.* and the said Earl and Trustees, to be delivered back to the said Earl and Trustees, in case the said Purchase did not proceed, or if it did, to be delivered to the said Sir *E. D.* upon his payment of the Purchase-Mony. And this Defendant saith, That she hath heard and doubts not to prove, that some short time after the said Earl was so committed there was a Bill exhibited in this Court by the said *R. C.* and Sir *W. F.* against the said Earl and Trustees, for satisfaction of their demands, either out of the said Trust Estate, or the said Purchase-Mony, and also against the said Sir *E. D.* to compel him forthwith to proceed in the said Purchase, or to quit the same, and that the said Sir *E.* appeared thereunto, and took out a Copy of the Bill; and was prosecuted to an Attachment for not answering the same; and the said Earl was not totally discharged from the said Accusation till the last day of *Michaelmas* Term then next following; in all which time the said Sir *E. D.* declined to proceed in the said Purchase, and then after the end of that Term he began to make his application to the said Earl and Trustees, or some of them, that he might have liberty to proceed in the said Purchase. But the said Earl, to whom the

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Surplus of the said Trust Estate did belong, and who was the only person, as she hath heard, that articted with him for the said Purchase, declared that the said Sir E. D. should not have the said Purchase, unless the said Sir E. D. would pay him Interest for the Purchase-Mony, from the time of executing the said Conveyances, until the time that the same Purchase-Mony should be actually paid, and that thereupon the said Sir E. D. did submit and agree to pay Interest for the same accordingly, with a deduction of the Sum of fifty pounds or thereabouts, which the said Earl voluntarily remitted unto him. But this Defendant doth insist, and doubts not to prove, that the said Agreement between the said Earl and the said Sir E. D. for the proceeding in the said Purchase and payment of the said Interest-Mony, was not made till after the death of the said *John Lord Stawel*, that is to say, upon the thirtieth day of *November*, one thousand six hundred ninety two, at night, and the Lord *Stawel* dyed the morning of that day, and then after the death of the Lord S. the said Sir E. D. did pay to the said Mr. R. C. Sir W. F. and Lord Archbishop their proportions of the said Purchase-Mony, and thereupon the said Conveyances were delivered by the said Mr. W. by the consent of the said Earl and the said Trustees, or one of them, and the said Sir E. D. did then execute a Counterpart of the said Conveyance, and not before. And it then appearing

pearing, upon producing the said Conveyances, that a Receipt was Indorsed thereupon, bearing date on or about the three and twentieth day of the same November, subscribed by the Lord *Stawel*, acknowledging that the said Sir *E. D.* had paid to the said Lord *Stawel* the said five thousand two hundred seventy seven pounds ten shillings, the said Sir *E. D.* declared that he had not paid the same; whereupon the said Mr. *W.* acquainted the said Earl and Parties then present, That the said Lord *S.* at the same time when he signed the said Receipt, signed a Note appointing the said Mony to be paid to the Complainant, but the said Earl thereupon did forbid the said Sir *E. D.* to pay the said Mony to the said Complainant. And presently after this Defendant had notice thereof, the said *J. F.* on behalf of this Defendant, did forbid the said Sir *E.* to pay the said Mony to the said Complainant or to any other person, and did demand the Mony for this Defendant, or to that effect, as the said *J. F.* informed this Defendant. And this Defendant farther saith, That she is informed, and doubts not but it will so appear, that the said Conveyance was carried by the said *E.* to the said Lord *Stawel*, in the time of his sickness, and that the said Receipt was Indorsed thereupon without the privity or knowledge of the said Sir *E. D.* or of the said Trustees, or of the said Earl of *Salisbury*; and that the said Sir *E. D.* as soon as he had notice thereof and

the said Note appointing him to pay the said five thousand two hundred seventy seven pounds ten shillings to the said Complainant, did refuse to pay the same, so that the said Complainant had a just occasion to resort to the said Lord S. for farther or other Security of the Mony due to him; but this Defendant doth insist, That the carrying the said Conveyances to the said Lord S. by the said W. and E. or one of them, was a breach of Trust in them, and such a contrivance whereby the Complainant ought not to have benefit nor this Defendant be prejudiced. And whereas the Complainant doth pretend that the said Lord *Stawel* by Writing bearing date the twelfth of *July*, one thousand six hundred ninety two, did Assign to him the said Complainant this Defendants said Portion of ten thousand pounds, in consideration of a Sum of one thousand pounds then advanced, and for farther securing the Sum of three thousand pounds due to him from the Lord S. on a Recognizance acknowledged to him by the said Lord S. before that time, this Defendant is informed that no such distinct Sums of three thousand or one thousand pounds were advanced and really paid to the said Lord S. at the time of acknowledging the said Recognizance, or of the date of the said pretended Assignment of the said Portion, but that there was an open currant Account between the said Lord S. and the said Complainant, and that the said Complainant being a Banker

Banker and Cashier for the Lord *Stawel*, had in the compass of one year received above the Sum of five and twenty thousand pounds of the said Lord S.'s Mony, and that he hath not sufficient Orders and Vouchers for justifying many of the Payments and Allowances which he bringeth in discharge of the said Monies so received by him, and that he was accountable to the Lord S. as he was a Trustee, and otherwise for great Sums of Mony. And this Defendant being not satisfied with the said Accounts, hath a Bill depending against him in this honourable Court, for discovery and relief touching all the Accounts and Transactions between the said Lord S. and the said Complainant, to which the said Complainant hath put in an Answer, and annexed an Account. And this Defendant is informed, That upon a just account to be taken of the demands of the said Complainant, many of the Sums for which the said Complainant hath made the said Lord S. Debtor will be disallowed; however, this Defendant doth insist, That the said pretended Assignment of the said Portion to the said Complainant, and the Note of the payment of the said five thousand two hundred seventy seven pounds ten shillings to him, are but in the nature of Letters of Attorney, which are determined and become void in point of Law, by the death of the said Lord S. and that in case the said five thousand two hundred seventy seven pounds ten shillings, due from the

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said Sir *E. D.* were the Mony of the said Lord *S.* this Defendant as his Administratrix hath the only right in Law to receive and give a legal discharge for the same, and that this Defendant hath good right in Equity to retain the same to her own use. But this Defendant doth insist and rely upon it, That the said five thousand two hundred seventy seven pounds ten shillings due from the said Sir *E. D.* never was the Mony of the Lord *S.* but the same is become the Mony of this Defendant, and is part of the Purchase Mony, raised and become due by Sale of part of this Defendants Fathers Estate, chargable with payment of this Defendants Portion, and that the said Purchase was not compleated till after the death of this Defendants said Husband. And this Defendant insists, that she hath as she conceives and is advised, the only right to receive the said five thousand two hundred seventy seven pounds ten shillings, from the said Sir *E. D.* and that the same ought not to be paid to the Complainant, and the rather for that the Complainant is in no danger to lose his Mony, as this Defendant is advised, for that his Recognizance affects the real Estate of the said Lord *Starvel*, and stands as a Security to him for what shall appear due to him, on the ballance of his Account. And this Defendant is informed that the personal Estate is considerable, although much of it is not yet come to this Defendants Hands. And the said Complainant hath been offered,

ferred, as this Defendant is informed by her Agents, that if he would amend his Bill, and pray a satisfaction out of the real and personal Estate, in case his demands upon this Defendants Portion should not avail, that this Defendant would do all things which she lawfully could to assist him in his obtaining satisfaction out of the real and personal Estate, for what upon a just Account should appear due to him, and this Defendant is still ready so to do; And particularly there are several thousand pounds due to the Lord S. on Mortgage from Mr. Lee, which for ought this Defendant knows, were not assigned by the said Lord S. to any of his Creditors, and remain to be received as part of the said Lord S. his personal Estate. And this Complainant was offered, as this Defendant is informed, that he should have satisfaction out of the said Mortgage, and this Defendant is still willing he shall be satisfied out of the same, so as she be indemnified therein by this Honourable Court. But nothing it seems will please the Complainant but to be paid out of this Defendants Portion, which at present is all she hath to trust to, to support her self, she having not yet received any thing out of the said Lord S.'s real or personal Estate, which as she is advised she can retain to her own use. And this Defendant traverseth, without that, that, &c.

The several Answer of Sir E. D. Knight, one of the Defendants to the Bill of Complaint of C. H. Complainant.

THIS Defendant saving to himself, now and at all times hereafter, all Advantages and Benefits of Exception to the manifold incertainties and imperfections of the Complainants said Bill; for Answer thereunto, or unto so much thereof as materially concerneth this Defendant (as he is advised) to make answer unto, he answereth and saith. That after such or thelike Act of Parliament for enabling such persons Trustees in the said Act named, to sell such part of the Estate of *James* late Earl of *Salisbury*, for payment of such Debts, Portions and other Sums of Mony therein mentioned was procured and passed, as in the Bill is set forth, to which this Defendant for his more certainty refers; he this Defendant did agree and contract for the Purchase of the Manor of *A. L.* and divers Lands and Hereditaments in the Parish of *C.* in the County of *H.* for the Sum of seventeen thousand five hundred pounds, of which said Sum this Defendant believes there might be five thousand two hundred seventy seven pounds ten shillings, appointed to be paid to *John Lord Starvel*, since deceased, who Married the Lady *Margaret*, one of the Daughters of the said late Earl of *Salisbury*, and such other Sums

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to other persons in the Bill named. And this Defendant believes there might be such Indenture Tripartite of the third of *May*, one thousand six hundred ninety two, and made between the now Earl of *Salisbury* and his Lady, and such other persons and this Defendant, executed as in the Complainants Bill is also set forth. And this Defendant saith, That he having employed *Mr. E.* and *Mr. W.* of *London*, Scriveners to transact the said Purchase, this Defendant left the manner of execution of the said Deed to their care and management. And this Defendant was not present himself at the execution thereof by the Lord *S.* but believes the said Lord *S.* might give such discharge for the said Sum of five thousand two hundred seventy seven pounds ten shillings, as in the Complainants Bill is mentioned. And believes that the Lord *S.* might write a Letter directed to this Defendant, touching the payment of the said five thousand two hundred seventy seven pounds ten shillings, to the Complainant, but this Defendant is not able to set forth the contents thereof, the same not being in his custody. And this Defendant believes, that about the Month of *December*, one thousand six hundred ninety two, the now Complainant might shew some Order or Letter, which the Complainant might say was from the said Lord *S.* but this Defendant refers himself to the contents of the said Letter or Order, when the same shall be produced, but saith it was
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after the report of the Lord S.'s death when the Complainant shewed this Defendant such Letter or Order, as aforesaid. And in regard the said Lord S. was dead, this Defendant did not think it safe to pay the said Mony on the said Order, until he had some order or direction of the now Earl of *Salisbury*, the payment thereof having before been forbid by the said Earl and two of the Trustees. And this Defendant doth acknowledge, That having heard the Complainant was to receive some part of the said Mony, this Defendant did sometime before the Lord S.'s death, appoint the said Complainant to meet this Defendant at *Salisbury-House*, to settle the said matter, and this Defendant attended there at the time appointed, where the Complainant also attended, and the Lord S. being acquainted that the Complainant attended there in reference to the matter aforesaid, a person was sent out to the Complainant to acquaint him, that the said Lord *Salisbury* said, that the other Parties that were to receive the Purchase-Mony were not present, so nothing could be done, or to that effect. And this Defendant saith, That upon a farther discourse then had with Mr. S. and Mr. F. two of the Trustees, touching the said Mony, they together with the said Earl of S. forbid this Defendant to pay the same to the Complainant, or any other person till farther order, or to that effect. And at another time, after the report of the said Lord

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Lord S.'s death, when this Defendant paid other persons who were entituled to receive other part of the said Mony, this Defendant was again by the said Earl and the two Trustees above-mentioned, forbid the payment of the said Mony to the Complainant. And this Defendant confesseth that he did not pay the rest of the said Purchase-Mony to the other persons to whom the same was to be paid, till after it was reported the Lord S. was dead. And this Defendant saith that he always had his Mony ready to pay to such persons who ought to receive the same, and hath kept the said Sum of five thousand two hundred seventy seven pounds ten shillings and upwards by him, without making any Interest of the same. But this Defendant saith, that the other Defendant, the Lady *M. Stawel*, Widow of the Lord *Stawel*, hath or pretends to have some right or claim to the said Mony, as Administratrix to her deceased Lord, and hath Exhibited a Bill in this Court against this Defendant to have the said Mony, and therefore this Defendant craves the direction of this honourable Court, how he shall pay the said Mony, and that on his payment thereof he may be discharged and indemnified, and have his Costs of this Suit, and also the Lady *Stawels* Suit. And this Defendant denies the Combination charged in and by the said Bill, without that, &c.

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The Plaintiff Exhibiting his Bill for Redemption and Account of Profits. The Defendant pleads in Bar thereto, setting forth the Original Lease, his Assignment thereof to the Plaintiff, the Plaintiffs Mortgage thereof to A. D. her Assignment of the Mortgage with the Plaintiffs consent to J. C. subject to Redemption, by Complainant J. C. his Assignment to J. P. upon condition to re-Assign to J. C. upon payment, &c. J. P. and the Complainants Assignment to T. C. with condition to re-Convey to the Complainant, on payment, &c. C. T. his Assignment to the Defendant by the Complainants consent, except a certain small Close. The Defendants Indenture of Defeazance to the Plaintiff. The Plaintiffs failure of payment, the Defendants Entry on the Premises, and afterwards an Indorsement on the Deed of Defeazance, releasing the Covenants therein, and equity of Redemption, and another Indenture of Assignment from the Plaintiff and T. C. of the Close excepted. And by his Answer denies Combination, sets forth the Value, and that he Purchased for a valuable Consideration.

THE said Defendant by Protestation not confessing or acknowledging all or any of the matters or things in the said Complainants Bill of Complaint contained to be true, in such manner and form as the same are therein and thereby set forth and alledged. As to so much there-
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of as seeks the redemption of the Tenements and Lands herein after mentioned, or to have an Account of the Profits, or to be otherwise relieved touching the same, and to all other the matters and things in the said Complainants Bill contained, and not herein afterwards answered unto, this Defendant doth plead in Bar thereto, and for Plea saith, That the Complainant on or about the first day of *July*, in the seventeenth year of the Reign of our late Sovereign Lord King *Charles* the second, being possessed and interess'd of and in all that Toft or Copy-hold Tenement in *Clifton* aforesaid, which was formerly burnt, wherein the Complainant dwelled, with the Yard, Garden and slip of Land, at the South-East end of *Clifton* Wood, and the small Close by *Bristol* Channel, with the Lime-Kiln therein being. All which were formerly *J. B.*'s for and during all the rest and residue of a term of ninety and nine years then to come and unexpired, if *J. G. B.* his Wife and *J.* his Daughter, or either of them should live so long, granted by the Worshipful *R. S. Esq;* to the said *J. G.* by Indenture of Lease, dated the twelfth day of *September*, in the two and twentieth year of the Reign of our late Sovereign Lord King *Charles* the first. And which the said *J. G.* afterwards, to wit, by Indenture dated the first day of *June*, in the seventeenth year of the Reign of our late Sovereign Lord King *Charles* the second, had assigned to the said Complainant,

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nant, he the said Complainant in and by one Indenture, bearing date the first day of *July*, in the said seventeenth year of the Reign of our said late Sovereign Lord King *Charles* the Second, in Consideration of fifty pounds to him the said Complainant in hand *bona fide* paid, by *A. D.* of *W.* in the Parish of *S.* in the County of *G.* Widow, did Grant, Bargain, Sell and Assign the said Premisses, and all his Estate and Interest therein to the said *A. D.* her Executors, Administrators and Assigns, but with a Proviso therein contained, for making the same void, in case the Complainant should pay to the said *A. D.* the said fifty pounds, with the Interest thereof, on the first day of *January* then next coming, as in and by the said Indenture may more fully appear. And this Defendant farther saith, That by one Indorsement or Deed Indorsed on the back of the said last mentioned Indenture, bearing date the third day of *August*, one thousand six hundred sixty eight, she the said *A. D.* in consideration of forty and five pounds, being the remainder of the Money secured by the said last Indenture to her in hand paid by *J. C.* of the City of *Bristol*, Apothecary, did, with the Complainants consent, Bargain, Sell and Assign the said Premisses, and all her Estate and Interest therein during the said term, to the said *J. C.* his Executors, Administrators and Assigns, but subject to be redeemed by the said Complainant on his payment to the said *J. C.* of the said forty

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five pounds and Interest, as by the said Deed Indorsed more fully it doth appear. And this Defendant for farther Plea saith, That by another Indorsment or Deed Indorsed, bearing date the ninth day of *November*, in the year of our Lord one thousand six hundred seventy one, the said *J. C.* for the consideration of thirty pounds to him in hand paid, by *J. P.* of the said City of *Bristol*, Marriner, did Bargain, Sell and Assign the said Premisses, and all his Estate and Interest therein, to the said *J. P.* his Executors, Administrators and Assigns, but upon condition, That the said *J. P.* should re-Assign the same to the said *J. C.* on payment of thirty one pounds and sixteen shillings on the tenth day of *November*, one thousand six hundred seventy two, as in and by the said last Indorsment, or Deed Indorsed may more fully appear. And this Defendant for farther Plea saith, That by Indenture bearing date the third day of *January*, in the twenty fifth year of the Reign of our late Sovereign Lord King *Charles* the Second, had and made between the Complainant and the said *J. P.* of the one part, and *T. C.* of the said City of *Bristol*, Merchant of the other part; reciting the said Original Lease from *R. S. Esq;* to the said *J. G.* And that the Tenements in question were by good ways and means in the Law come to and vested in the Complainant, in consideration of ten pounds paid to the Complainant, and of thirty pounds paid to the said *J. P.*

J. P. the Complainant and the said J. P. did grant, bargain sell and assign to the said T. C. his Executors, Administrators and Assigns, the Tenements in question, and all their Estate, Term and Interest therein; In which last Indenture there is also a Proviso, That in case the Complainant should pay to the said T. C. forty one pounds four shillings, on the fifth day of *July*, then next following, then the said T. C. was to re-convey the said Premises to the said Complainant, as in and by the said last Indenture may more fully appear. And this Defendant for farther Plea saith, That by an Indorment or Deed Indorsed on the back of the said last Indenture bearing date the twenty fourth day of *August*, one thousand six hundred seventy four, the said T. C. in consideration of eight and twenty pounds to him by this Defendant *bona fide* paid, by and with the consent and agreement of the said Complainant, he the said T. C. did likewise by the Complainants consent Assign the said Premises, except the said small Close, in the Original Indenture particularly mentioned, and all his Estate, Term and Interest therein, to him the said Defendant. And this Defendant farther saith, That in and by one Indenture, bearing date the sixth day of *October*, in the said year of our Lord, one thousand six hundred seventy four, made between this Defendant of the one part, and the Complainant of the other part, reciting the said last Indorment, he this Defendant did thereby signifie and declare
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and did also Covenant with the Complainant, That if the Complainant should pay this Defendant twenty eight pounds and ten shillings upon the twenty fifth day of *April* then next coming, That then this Defendant would re-convey the said Premises, except before excepted, unto the Complainant, as in and by the said last recited Indenture may more fully appear. And this Defendant for farther Plea saith, That the Complainant failed in payment of the said twenty eight pounds and eighteen shillings, and thereupon this Defendant entred into and upon the said Premises, and became possessed thereof, and afterwards, to wit, by an Indorsement or Deed Indorsed, on the back side of the said last recited Indenture of Defeazance, bearing date the nineteenth day of *October*, in the twenty seventh year of the Reign of our late Sovereign Lord King *Charles* the Second, and in the year of our Lord, one thousand six hundred seventy five, he the said Complainant in consideration of the Sum of ten pounds of lawful English Mony, to him in hand really and *bona fide* paid by this Defendant, did absolutely remise and release to this Defendant, his Executors, Administrators and Assigns, the Covenants in the said Indenture of Defeazance contained, and all benefit and equity of Redemption of the Tenements therein mentioned, and all his Estate, right, title, interest, claim and demand, as well in Equity as in

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Law, of, in and to the same.² To have and to hold the said Premises, with the Appurtenances unto the said Defendant, his Executors, Administrators and Assigns, for and during the remainder of his Term, and interest therein discharged, and free from all benefit and equity of Redemption whatsoever, as in and by the said last recited release may more fully appear. And this Defendant by way of Plea farther saith, That by Indenture bearing date the eighth day of *October*, in the year of our Lord, one thousand six hundred seventy four, made between the Complainant and the said T. C. of the one part, and the Defendant of the other part, reciting the said Original Lease, from R. S. to the said J. G. and that afterward by divers good ways and means in the Law, the same was come to the Complainant, and to the said T. C. they the said Complainant and T. C. in consideration of the Sum of twenty five pounds and five shillings, to them, or one of them, by this Defendant in hand *bona fide* paid, did absolutely Bargain, Sell, and Assign and set over unto the Defendants, all that the aforesaid small Close above recited, containing in length four hundred and sixty foot, and the whole breadth from the River of *Avon* to the way leading towards *Rownam*, together with all Ways, Waters, Easements, Profits, Commodities, Advantages, Emoluments and Hereditaments whatsoever, to the said Close belonging or appertaining, and all his

his Estate and Interest therein. To hold to him this Defendant, his Executors, Administrators and Assigns, for and during all the rest and residue of the said Term for years then to come and unexpired, if the Lives aforesaid, or either of them should so long live, as in and by the said last recited Indenture, may more fully appear, and that the same was an absolute Purchase of the said Premises, without any Proviso, Condition, Covenant or Agreement for making void the same, upon the payment of any Sum of Money whatsoever. And this Defendant for farther Plea saith, That immediately after the Sealing and Executing the said two last Deeds, he this Defendant became a real and absolute Purchaser of the said Premises for a valuable Consideration, and accordingly entred thereupon, and hath ever since quietly enjoyed the same, and is well entituled thereunto and doth insist that he hath a good, absolute and indefeazable Estate therein, during the continuance of the said Estate for years, determinable on the Lives aforesaid, and that he is not accountable for the Rents and Profits unto the Plaintiff, and that he ought to retain the Deeds and Evidences which concern the said Premises, for the maintainance of his Title thereunto, and therefore Pleads the said matters in bar to such part and so much of the said Bill as seeks to be relieved against the said Purchase, or any discovery of the Writings touching or concerning

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the same, as aforesaid, and humbly demands the Judgment of this honourable Court, whether he shall be compelled to make any other Answer to such part of the said Complainants Bill, as aforesaid. And for Answer to so much of the said Bill as is not above pleaded unto, he this Defendant denies all Combination in the Complainants Bill charged, and likewise denies the said Premises are of the yearly value in the Plaintiffs Bill mentioned, or of any greater yearly value than above five pounds *per annum*. And saith, he knows not that the Complainant was possessed of any other Tenements or Hereditaments whatsoever, other than the Premises in this Defendants Plea mentioned, and saith he claims no other, nor hath nor knows of any Deeds, Evidences or Writings. or of any Estate belonging to the Plaintiff, save only such as concerns the Premises in this Defendants Plea mentioned. And this Defendant denies that he ever made any other Covenant or Agreement with the Complainant or any other person whatsoever, touching or concerning the redemption of the said Estate, but what is mentioned in this Defendants Plea. And this Defendant doth verily believe that the said Purchase-Money paid by the Defendant for the said Premises, was a full and valuable Consideration for the same, at the time of the said Purchase made, without that, that, &c.

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The Demurrer and Answers of *J. W.* Senior, *J. W.* Junior, and *J. H.* Defendants to the Bill of Complaint of *J. B.* Complainant.

The Defendants Demur to part of the Plaintiffs Bill, for that there is no ground of Equity in his Bill, and that he hath remedy at Law for the same Matters; and Answereth the other part.

THE said Defendants by Protestation not acknowledging all or any of the Matters of the Complainants Bill to be true in such manner and form as the same is and are therein or thereby set forth, they say, That they are advised that the drift and design of the Bill is for relief in matters properly determinable at Law. And that the Complainant grounds his Complaint upon the Suggestion therein, That by an Agreement made between these Defendants, some or one of them, with the Complainant, or some other on his behalf, whereby these Defendants, some or one of them were to serve and to deliver to the Complainant or his Use, several Quantities of Mault-Grains, daily and weekly, during the year begun at *Michael-*

mas, one thousand six hundred eighty four, and ended at *Michaelmas*, one thousand six hundred eighty five; farther suggesting, That these Defendants did not according to their Agreement, deliver or cause to be delivered to the Complainant or to his use, above half the quantity of Grains which they were to deliver, and that yet these Defendants do demand payment and satisfaction from the Complainant for a far greater quantity of Grains than were in truth delivered, and do threaten to sue him at Law for the same. And therefore prays these Defendants may discover the quantities of Grains from time to time during the said year, delivered by these Defendants, or any for them, to the use of the Complainant, and that these Defendants may produce their Books and Entries, and set forth the several quantities of Mault they brewed Weekly from time to time, during the said year, and do pray a full discovery and relief in the said matters. To all which these Defendants do demur, for that of the Plaintiffs own shewing, there is not any sufficient matter of Equity suggested by the Bill, whereof this Court ought to take Cognizance, and that the said matters are properly determinable at the Common Law, where these Defendants shall not be able to recover any more damage than what they shall prove and make appear to the satisfaction of the Jury, and the Plaintiff may there have the like remedy for any damage sustained by

by means of these Defendants. And for that this Court cannot Decree a performance of the Agreement suggested, nor assess damages for the non-performance. And also for that these Defendants may lay themselves open and exposed to many inconveniences by discovering and producing their Books and Entries, and for that the Plaintiff hath not by his Bill any ways intituled himself to any discovery of the quantities of Mault brewed by these Defendants; Wherefore, and for many other apparent defects in the said Bill these Defendants do deny to answer to all the matters before mentioned and to all the matters in the said Bill not herein after answered unto, and also to the relief prayed, and do humbly crave the Judgment of this honourable Court, whether they or either of them shall be compelled to make any other or farther Answer thereto. And for Answer these Defendants say, that what Agreement was made, was made by the Defendant *J. W.* the younger with the Plaintiffs now Wife, which Agreement this Defendant *J. W.* the younger, saith was made in or about *September*, sometime before *Michaelmas*, in the year one thousand six hundred eighty four, this Defendant being then at his Brew-house in *Turnmil* Street, the Plaintiffs Wife came thither to him and proposed to buy and take of this Defendant such quantity of Grains as she then mentioned, whereupon a rate or price was agreed upon, and this Defendant on be-

half of himself and the other Defendant *J. W.* Senior, did agree to let her have half a Tun of Ale Grains, being brewed off every *Tuesday, Fryday* and *Saturday*, and a Quarter and an half of Beer Grains every *Tuesday*, and a Quarter of Beer Grains every *Saturday* in every Week, beginning at *Michaelmas* then next, being *Michaelmas* one thousand six hundred eighty four, until *Michaelmas*, one thousand six hundred eighty five, according to the custom, to be taken by the Plaintiff, his Wife, or his Servants, at these Defendants Brew-house at *Spye Corner*, near to *Smithfield*, if these Defendants did brew on those days, and the rate and price agreed upon was fourteen pence *per* Quarter. And the Plaintiff's Wife did agree to pay, and promised that she would pay so for all the Grains so to be delivered, or to that very effect, which was the whole Agreement to the best and utmost of this Defendants knowledge or remembrance, save that this Defendant promised to give her a Kilderkin of Ale at *Christmas*. And these Defendants do severally deny that there was any other Agreement made with the Plaintiff or his Wife, or any other on his or their behalf. And these Defendants *J.* the younger and *J. H.* do believe that this Defendant *J. H.* was present at the said Agreement, and that a Servant of the Plaintiff or his Wife was then also present. But what his Name was or where he is or hath since dwelt these Defendants or either of them do not know,
nor

nor do they or either of them, each answering for himself, know or remember that any other persons whatsoever, was then by or present. And these Defendants do severally say and hope to prove, to the satisfaction of a Jury, if the Plaintiff shall think fit to stand a Tryal at Law for the same, That they did fully perform the said Agreement, and the Plaintiff may be well assured, that these Defendants shall not be able to recover damages at Law for any more or greater quantities of Grains than what they shall make appear to be delivered to the Plaintiff or his use. And this Defendant *J. H.* doth confess, That he as a Servant or Clerk to the other Defendants, at their Brew-House at *Spye Corner*, did on or about the one and thirtieh day of *March* last receive of the Plaintiff, or his Order, the Sum of forty pounds, and on or about the twenty sixth day of *June* last, the farther Sum of fifty Pounds in part of what was due to the said other Defendants for Grains delivered, and gave two several Acquittances for the said Sums, to which Acquittances this Defendant refers himself. And all these Defendants, each answering severally, do deny that they or either of them or any other to their or either of their use or uses, to their severall knowledge or belief, have any ways had or received of the Plaintiff, or any other by his order or for his use, any other Sum or Sums of Money whatsoever, for or towards satisfaction

on

on of the said Grains or otherwise, but do believe and hope to prove to the satisfaction of a Jury, That during the said year they did deliver or cause to be delivered to the Plaintiff or his order and use so many Quarters of Grains as at fourteen pence the Quarter, being the rate agreed upon, came to one hundred fifty two pounds, two shilling, eleven pence half penny, out of which they are ready and willing to deduct and discount the said Sums of forty pounds and fifty pounds received as aforesaid, and then there remains due to them from the Plaintiff, the Sum of sixty two pounds, two shillings, eleven pence half penny, as near as they can compute the same, which they have caused to be demanded of the Plaintiff, but he hath denied or neglected to pay the same, but instead of honestly paying for the said Grains what remains justly due, as aforesaid, hath, as these Defendants are informed and doubt not to prove, made several addresses to several other persons who have dealt with these Defendants, and hath invited and perswaded them to joyn with him in a Bill in *Chancery* against these Defendants, and the better to draw them thereto, did boast that he was a Solicitor, and was able to Solicit and follow the Suit, and would compel these Defendants, for their own quiet, to make some considerable Abatements or Compositions, or to that very effect; but not being able to draw in any of them, they severally declaring

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to him, that they were really satisfied of the integrity and just dealings of these Defendants, and therefore would not commence any Suit against them, or to that effect, The Plaintiff hath now ventured upon the Suit alone, and hath frequently threatned how long he can keep these Defendants in *Chancery*, and what he will compel them to spend, of which these Defendants humbly hope this Court will take due consideration. And this Defendant *J. H.* saith, That he is no ways concerned or interested but as a Clerk to the other Defendants, aforesaid. Without that, that any other matter or thing in the said Complainants said Bill of Complaint contained, material or effectual in the Law for these Defendants to Demur and make Answer unto, and not herein or hereby well and sufficiently demurred and answered unto, confessed or avoided, traversed or denied, is true, to the knowledge of them these Defendants. All which matters and things they these Defendants are ready to aver, maintain and prove as this honourable Court shall Award. And humbly pray to be hence dismissed with their reasonable Costs and Charges in this behalf most wrongfully sustained.

Ric. Holford.

The

The Joynt and severall Pleas, Demurrers and Answers of T. P. Gentleman, S. D. Spinster, E. C. Widow, G. P. Gentleman, J. C. C. T. R. E. and W. F. Defendants to the Bill of Complaint of H. D.

The Defendants Plead in Bar to part of the Complainants Bill to compel them to discover their Titles, that the Complainant hath conveyed the Premisses in question to another person who defended an Action in Ejectment brought by one of the Defendants to the said Lands. And to another part of the Bill, where by the Plaintiffs own shewing he was under Age at the time of the Articles of Agreement, Demurs for that the same is void in Law, and cannot bind the Complainant or his Heirs.

THE said Defendants by Protestation not confessing or acknowledging all or any of the matters and things in the Complainants Bill of Complaint contained to be true, in such manner and form as the same are therein set forth and charged against these Defendants. These Defendants for Plea to so much of the Complainants Bill as is to compel these Defendants to set forth and discover their respective Titles in and to the Manor, Lands, Tenements and Hereditaments in the Bill of Complaint mentioned, or any part there-
of,

of, they say, That the said Complainant hath several times within these twelve Months last past, affirmed to the Defendant *T. P.* and to several other persons, as these Defendants *S. D. E. C. G. P. J. C. R. T.* and *W. F.* have been informed, and the said *T. P.* doth now affirm, That he hath sold and conveyed away unto *J. F.* of *Grays-Inn*, in the County of *Middlesex*, Esq; all his Estate, Title, Interest or Claim, of, in or to the said Manors, Lands and Premises in his now Bill of Complaint mentioned. And the said *J. F.* hath now also within the said time very often affirmed to the said *T. P.* and several other persons, that he had bought in and purchased of the now Complainant all his Estate, Interest, Title or Claim in or to the said Manor, Lands and Premises now in variance. And thereupon this Defendant *T. P.* on behalf of himself and the other Defendant *S. D.* did fall into a treaty with the said *J. F.* and the said *T. P.* and several of their Friends. And the said Complainant did know of the said Reference, and gave encouragement to the said *T. P.* to treat and agree with the said *J. F.* and did then also affirm, That he had nothing to do with or laid any claim to the said Manor and Lands. And the said *J. F.* in an Action of Trespass and Ejectment, brought by this Defendant *R. T.* upon the supposed Demise of the Defendants *J. C.* and *C. T.* which was tryed the last Assizes at *W.* did take upon him the defence of the said Action,

Action, did defend the same at the said Tryal accordingly. All which these Defendants do aver, and are ready to prove the same as this honourable Court shall award; by reason whereof these Defendants are advised that the Complainant having no Interest or Title of, in or to the said Manor, Lands and Premisses, but having transferred the same unto the said *J. F.* as aforesaid, they nor any of them are obliged or compellable by the Rules and Practice of this honourable Court either to discover or set forth the particulars of their or any of their Conveyances or Assurances, or the nature of them, or the manner of Execution of them, or to set forth their or any of their Interest or Title of, in or to the said Manors, Lands, and Premisses, or any part thereof, and therefore humbly pray the Judgment of this honourable Court, whether they shall make any farther or other Answer to the said Bill of Complaint in this particular. And these Defendants farther say, That by the Complainants own shewing in and by his said Bill of Complaint, he was an Infant under the age of one and twenty years, at his time of entring into the said Articles of Agreement, in his Bill of Complaint mentioned, with the said Defendant *T. P.* and if so, the same is voidable in Law, and ought not to be any ways binding or obliging to the Complainant or his Heirs. And therefore, and for divers other apparent defects and imperfections in the
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said Bill of Complaint contained, these De-
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 demand the Judgment of this honourable
 Court, whether they or any of them shall
 be compelled to make any farther or other
 Answer in any particular touching his In-
 fancy, or other than what herein here-
 after followeth. And for Answer to such
 part of the Bill of Complaint as is not
 pleaded or demurred unto, these Defen-
 dants say, and all of them for and by
 themselves severally deny all and all man-
 ner of undue practice, confederacy or com-
 bination whatsoever, one with another, or
 to or with the other persons in the said
 Bill of Complaint named for Defendants,
 or any of them, or to or with any other
 person or persons whatsoever, to defeat,
 defraud, or circumvent the said Complai-
 nant, as in the said Bill is scandalously pre-
 tended, or to any other intent or purpose
 whatsoever. And all these Defendants for
 themselves severally deny that they or any
 of them have or hath, or ever had the
 said pretended Deeds of Settlement or In-
 tail in the Bill mentioned, or any or either
 of them, or any other Deeds, Writings or
 Evidences whatsoever, touching or con-
 cerning the said Manor, Lands and Pre-
 misses, in the Bill mentioned, or any part
 thereof which do any ways tend to the
 making out or proof of any Title or Inte-
 rest of or for the Complainant in and to
 the same, or any part thereof, nor do these
 Defendants or any of them claim any In-
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terest or Title in or to the said Manor, Lands and Premises, in the Bill mentioned, or any part thereof, by, from or under the Complainant; nor did these Defendants or any of them, by, from or under any Title derived from the said Complainant, commence or prosecute any Action of Trespass and Ejectment brought in the name of the said Defendant *R. T.* as Lessee or supposed Lessee of the said *J. C.* and *C. T.* which was tried at the last Assizes at *W.* wherein the now Complainant did not enter into any Rule to defend the same, although he knew thereof, as these Defendants *T. P.* and *S. D.* hope to prove to this honourable Court; but the said *Mr. F.* took upon him the defence of the said Action, and produced Witnesses and several Deeds and Evidences at the said Tryal. And after Evidence given on both sides, a Verdict therein passed for the said Defendant *R. T.* then Plaintiff in the said Action, for part of the said Manor and Lands now in variance, but these Defendants have as yet no benefit of the said Verdict. but Execution thereof is stayed by the Injunction of this honourable Court, obtained by the said *J. F.* in another Cause, wherein he is Plaintiff against these Defendants and others. And these Defendants *T. P.* and *S. D.* say, That they hope to prove to this Honourable Court, That the Bill or Complaint exhibited against the said now Complainant is exhibited and this Suit prosecuted by and at the charge

of

of the said J. F. and not by the Complainant, and that the said Complainant hath so acknowledged, and that the said J. F. hath unnecessarily and causlessly exhibited this Bill in the now Complainants name, on purpose (as these Defendants believe) to vex and trouble these Defendants, and to put them to unnecessary Charges in the Law, of which these Defendants hope this honourable Court will take due consideration, and consider the same in Costs to these Defendants. And therefore traverse and say, Without that, that, &c.

P p

The

The Demurrer of *W. F.* and *A. F.* requires, two of the Defendants for their parts, to the Bill of Complaint of *T. J.* Gentleman, pretended surviving Executor of the last Will and Testament of *R. C.* deceased, Complainant.

The Defendant Demurs, for that the Plaintiff pretending a Title to the Lands in question, for a Term of Years, doth not set forth the Lessors Title, Seisin or Estate, and that claiming under a pretended Will, doth not shew that the Will was Proved before a competent Ordinary, and that Suing for mean Profits, he doth not set forth, That the Defendant, or any under him, entred on the Premisses. And that the Bill being to be relieved upon a pretended Lease for Years, made by J. F. Deceased, against a former Lease of Mortgage, he doth not set forth the certainty nor nature of the Mortgage, nor the Sum of Money secured or to be redeemed.

THE said Defendants by Protestation not confessing or acknowledging any thing in the said Bill of Complaint contained to be true, in such sort, manner and form as in and by the said Bill of Complaint, the same is set forth and alledged, do say, as they are informed by their Counsel, That the said Bill of Complaint

plaint and the matters and things therein contained, are so incertain and insufficient in the Law, as that the Defendants are not bound by the Laws of this Land to make any Answer at all thereunto: And namely and particularly for the causes following. First, for that the Plaintiff by his Bill doth pretend a Title to the Messuage and Lands in the Bill mentioned, for a term for years yet in being, from Sir E. F. Baronet, deceased, and yet doth not shew or set forth any Seisin, Title, or Estate in the said Sir E. F. to enable him to make the said Lease, but only alledgeth in general Words, That the said Sir E. was or pretended himself to be seized in his Demesne as of Fee, but doth not shew or set forth of what Lands he was so seized, or whether he was seized of the Lands in question, or not, which he ought to have done, as these Defendants are informed by their Counsel. Secondly, The said Plaintiff by his Bill claims by and under a pretended Will, supposed to be made by the said R. C. whereof he stileth himself the surviving Executor, but doth not shew or set forth by his said Bill, that the said Will was duly proved before the competent Ordinary in that behalf, for that the Law doth not take notice of any other person but only the Ordinary for proof of Wills, and the Probate thereof before a Chancellor is not a sufficient power to enable the Plaintiff to maintain an Action or Suit thereupon, as these Defendants are inform-

ed by their Council. Thirdly, The Plaintiff by his Bill claims and sues for the Rents, Issues and Profits of the said Messuage, Lands and Premisses, supposed to be had, received and taken by the Defendants for many years past, and yet the Plaintiff by all or any part of his Bill doth not alledge, That he or the deceased *R. C.* or any other under him have entred into the said Messuage, Lands and Premisses, but rather on the contrary it appears by the said Bill, that the said Complainant or the said *C.* have only intended or indeavoured to enter into the said Messuage, Lands and Premisses, but did not enter, so that until entry and disturbance thereupon, the Plaintiff hath no cause in Equity to question the Defendants for the Rents, Issues and Profits of the Premisses, or to molest or trouble the Defendants by this Suit, as they are informed by their Council. Fourthly, The Scope of the Plaintiffs Bill, by his own shewing, is to be relieved upon a pretended Lease for twenty and one years, supposed to be made by *E. F.* deceased, against a former Lease made by the said Sir *E. F.* to *M. K.* in the Bill named, which the Plaintiff alledgeth to be a Mortgage, or other security for a great Sum of Mony, but the said Plaintiff doth not shew or set forth the certainty or nature of the said Mortgage, nor for what Sum of Mony the Lands were so Mortgaged or Secured, or to be Redeemed, nor that the said *R. C.* had any Liberty Power or Authority

thority granted unto him by the said Sir E. F. the Mortgagor, to redeem the Premises from the said M. K. nor was or is any privity of Contract between the said R. C. and the said M. K. or between the Plaintiff and the said M. K. or the now Defendant. Fifthly, In case the said Sir E. F. did make any Mortgage of the said Lands and Premises to the said M. K. and had such liberty and power of redeeming, as is set forth by the said Bill, and that afterwards he made the said pretended Lease of one and twenty years, to the said R. C. as is likewise set forth by the said Plaintiffs Bill, the Defendants do say, That thereby the said E. F. did destroy and determine the said liberty and power of redemption, and that had he been living he could not by any Legal or Judicial proceedings, either in Law or Equity, have been inabled to redeem the same, for that by the making of the said second or latter Lease to the said R. C. he had extinguished and determined his liberty and power of Redemption, as these Defendants are informed by their Counsel: For all which causes, and many other insufficiencies and imperfections appearing in the Plaintiffs Bill, the Defendants by and under the favour of this honourable Court do demur in Law unto and upon the said Bill of Complaint, and therein do humbly demand the Judgment of this honourable Court. All which matters and things these Defendants are and will be

ready to aver, maintain and prove, as this honourable Court shall award, and pray to be hence dismissed with their reasonable Costs and Charges herein wrongfully sustained.

The several Demurrer of the Right Honourable C. Earl of M. one of the Defendants to the Bill of Complaint of J. C. Complainant.

THE said Defendant by Protestation, not acknowledging or confessing all or any of the matters or things in the said Bill of Complaint contained to be true, in such manner and form as the same are therein and thereby set forth and alledged, saith, He is advised by his Counsel, That there is no matter or thing in the said Bill contained, good and sufficient in Law, whereby to call this Defendant in question in this honourable Court for the same, but that there is good cause of Demurrer thereunto, for that it appears of the Complainants own shewing, in and by his said Bill, That the Scope and end thereof is for the Complainant, as being Administratrix of the Goods and Chattels of R. C. deceased, with his Will annexed, unadministred by his Executors therein named, to be relieved touching a Lease or Term of one and twenty years, of a Messuage and certain Lands in the Bill mentioned, supposed to be demised by Sir E. F. unto the said R. C. deceased, by Indenture bearing

bearing date the first day of *June*, in the seventeenth year of the Reign of King *Charles* the first, for such Term as afore-said, to commence from and immediately after the decease of one *E. M.* in the Bill named, then Tenant in possession of the Premises, and to charge the Lands with four hundred pounds and Interest, alledged to have been the consideration paid for the said Term, or to be answered out of the Lands and the Profits for one and twenty years. To which said several matters and all other the things in the said Bill contained, this Defendant doth Demur, and for cause of Demurrer sheweth, That it appeareth of the Complainants own shewing, that the said *E. M.* dyed in or about the year one thousand six hundred forty eight, and that the said Term or Lease for twenty one years, touching which he seeks relief, expired, in or about the year one thousand six hundred sixty nine, and therefore inasmuch as the Land was not, nor is not any way chargable with, or lyable unto the Plaintiffs demands, either in Law or Equity, after the expiration of the said Lease; nor is the Defendant, for ought appears by the Bill, any ways answerable or accountable in Equity, for any profits of the Premises, taken during the said Term of twenty one years, and therefore it is reasonable to presume, That the said Lease was surrendred or delivered up to the Executors of the said *R. C.* it appearing of the Complainants own shewing,

That the same long since came to the Hands of *W. F.* and *A. F.* in the Bill named, or one of them, who then claimed to have an Estate and Interest in the said Lands and Premises, and entred and took the Profits thereof; And forasmuch as a demand of this nature, especially after so great a length of time, as aforesaid, ought not to be countenanced in this Honourable Court; And the said Bill containing in it no Equity against this Defendant: This Defendant therefore for all the said causes, and for several other defects and manifest imperfections of the said Bill of Complaint, doth demur in Law to the said Bill of Complaint, and abides by the Judgment of this Honourable Court, whether he shall be enforced to make any other or farther Answer thereunto, and prays to be hence dismissed with his reasonable Costs and Charges in this behalf wrongfully sustained.

T. Vernon.

*The Answer and Plea of J. S. of London,
Merchant, to the Bill of Complaint of J. W.
Esq; Complainant.*

THE said Defendant saving to himself the benefit of Exception to the incertainties and insufficiencies of the said Bill, as is not herein after pleaded unto, he answereth and saith, That true it is, the Complainant did about the time in the Bill for that purpose mentioned, send this Defendant a Release, but this Defendant doth positively deny, that he this Defendant did by any indirect ways and means whatsoever get the said Release into his hands, or that this Defendant did take any advantage of the said Defendants distressed condition, or that he did or doth combine with any person or persons whatsoever, intending to defraud and deceive the Complainants Creditors of any Sum or Sums of Mony, pretended to be due to the Complainant. But this Defendant saith, that he confesseth that he hath and still doth refuse to pay unto the Complainant or his Creditors, the Sums by the said Bill demanded, as he hath good reason so to do, for that about the time when the said Complainant sent the said Defendant the said Release, there was very little due unto the said Complainant, according to the best of this Defendants remembrance and belief. And this Defendant farther

ther saith, That he this Defendant was a very great friend to the said Complainant, and at that time did stand actually bound for him the said Complainant in the Sum of ten thousand pounds to the Warden of the *Fleet* for his the said Complainants returning back to the *Fleet*, and that by means thereof the said Complainant had his liberty in order to the getting in of his Debts, and that the said Complainant did not make any demand at the time when he sent this Defendant the said general Release, of any Sum or Sums of Mony, and hath rested ever since without bringing any Bill or Action against this Defendant, until the time of exhibiting the said Bill, and therefore this Defendant believes the said Complainant did not at the time when he sent this Defendant the said Release, intend ever to insist upon the Ballance of the Account that was between them. And this Defendant for Plea unto that part of the said Bill which prays an Account and Relief against this Defendant upon the same, saith, That the said Complainant by a Writing under his Hand and Seal, bearing date the twentieth day of *June*, one thousand six hundred sixty one, hath, for himself, his Executors, Administrators and Assigns, acquitted and discharged this Defendant, his Heirs, Executors, Administrators and Assigns, of and from all Bills, Bonds, Debts, Reckonings and Accounts whatsoever, from the beginning of the World to the day of the

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the date thereof; to the executing which said Release, there are three persons named as Witnesses (*viz.*) *A. L. P. W.* and *A. R.* And therefore this Defendant doth plead the said Release in bar to the Complainants demand by his said Bill, and humbly demands the Judgment of this honourable Court, whether he shall be compelled to make any farther or other Answer.

Sa. Blackerby.

The joint and several Pleas and Demurrers of *J. S.* and *J. H.* two of the Defendants to part, and their joint and several Answers to the residue of the Bill of Complaint of *W. M.* Complainant.

The Defendants plead a Verdict to part of the Complainants Bill, and demurs to the other part, for that there is no ground or foundation of Equity for the Complainant to make a Decree, and that if they were surprized at the Tryal at the Common-Law, they ought to move for redress in the same Court. And for that A. Wife of J. H. one of the Lessors is not made a Party.

THE said Defendants by Protestation, not confessing or acknowledging all or any of the matters or things in the Bill mentioned to be true, in such manner and form

form as the same are therein and thereby set forth, for Plea they jointly and severally say, That the Complainant on or about the twelfth day of *May* last, did Exhibit his Bill of Complaint into this honourable Court against these Defendants, and against *A.* the now Wife of this Defendant *J. H.* thereby setting forth his the Complainants pretended Title to the Messuage or Tenement Stable and Premises in the Bill mentioned, by and under the Will of *W. W.* in the Bill named, which Will the Complainant did thereby set forth to be remaining in the Prerogative Court, and in such other manner as in the Complainants now Bill is set forth, and complaining that these Defendants and the said *A.* the Wife of the Defendant *J. H.* intending to disinherit the Complainant, did pretend Title to the Tenement, Stable and out-Rooms therein mentioned in the Complainants possession, and that they were not the same Premises devised by the said Will, and supposing that the Complainant had no Witnesses to prove the same, or that they were very ancient, whereby they could not live long, these Defendants had disturbed the Complainants possession. And that this Defendant *J. S.* gave out, that he intended to enter on the Premises, and to commence Suits for recovery thereof, but refused to discover his Title, And for that the Witnesses to the Will, and who could prove the Complainants Title and the enjoyment, and that the Houses claim-

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ed by these Defendants to be by the same devised, were very ancient and infirm, and in case they should dye before they were examined, the Complainant might be prejudiced; therefore that the Defendant *J. S.* might discover his Title and under whom he claims, and by what Deeds, and what he knew or had heard touching the said Will and the said Tenement, Stable and out-Rooms thereby devised, and whether they were not the same that were devised, and might answer all other the Premises, and that the Complainants Witnesses might be examined in this Court for the preservation of their Testimonies, and that the Complainant and his Heirs might have the use and benefit thereof, and that he might have an Answer and discovery and be relieved in the Premises, was the Scope of that Bill. Whereunto this Defendant *J. S.* did soon after put in his Answer, and did thereby set forth the truth of his knowledge, and of what he had heard, as to the said Will of the said *W. W.* And as to the Complainants Title to the Tenements devised, that the Complainant then had and enjoyed the same, which was all that was devised by the said Will to the said *S.* and his Wife, as this Defendant conceived. But as to the two Messuages or Tenements in the Bill mentioned, lately built on certain ground near thereunto, by *G. H.* who was Lessee for years under the Defendant *J. S.* did thereby set forth, That the said two Messuages

fuages with the Stable and ground whereon the said two Messuages were built, then were not nor ever were parcel of the Tenement, Stable and Premises, devised by the said *W. W.* to the said *S.* and his Wife, but were part of other Tenements, Ground and Possessions of the said *W. W.* and which were by him devised to *N. W.* in the Bill named, and his Heirs, from and under whom the Defendant *J. S.* had and claimed Title (amongst other things) to the said two Messuages and Stable. He this Defendant *J. S.* and those under whom he claimed, having ever since the death of the said *W. W.* until about twelve Months then before, quietly enjoyed the said Stable and the said two Houses and the ground whereon the same were built by the said *G. H.* and constantly had or received the Rent thereof. And this Defendant *J. S.* did thereby farther set forth, That he did not know or believe, or ever heard but then lately by the Complainant and his Agents, that the two Houses and Stable, or any part thereof were ever the same or part of, or belonging to the Messuage devised to the said *S.* and his Wife, or to that effect, wherein the Complainant hath examined several Witnesses, as by the said Bill, Answer and Depositions remaining as of Record in this Court, it doth and may appear. And these Defendants farther aver and say, That *N. W.* the Son of the said *N.* the Devisee, for a valuable Consideration, having well conveyed,

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as these Defendants are advised, the said Stable and the ground and place whereon the said two Houses are built, amongst other things, and without any Exception, to T. S. deceased and his Heirs, near forty years since, under whom this Defendant J. S. claims the same. And this Defendant J. S. and those under whom he claims, having been in possession, and received the Profits of the ground or place whereon the said two Houses now stand, he this Defendant J. S. did demise the same by Lease to the said G. H. for a term of years yet enduring, at a yearly Rent, who entred thereinto, and erected the said two Messuages and Tenements at his own Costs, and afterwards for a good and valuable consideration, assigned the same to this Defendant J. H. and to the said A. his Wife, who received the Rents and Profits thereof till within these two years last past, when the Complainant got into the possession thereof; by virtue of which said Lease and Assignment this Defendant J. H. and the said A. his Wife, are, as these Defendants are advised, well intituled to the said two Houses or Tenements during the said term, the Reversion or Inheritance thereof being in the Defendant J. S. And this Defendant J. H. and the said A. his Wife being Purchasers thereof, and the Complainant having gotten into possession as aforesaid, they in or about *Easter-Term* last past, brought an Action of Trespas and Ejectment, in his Majesties Court of *Kings-Bench*

Bench at *Westminster* against the Complainant, in the name of *O. E.* their Lessee, for the recovery of the Possession thereof, whereunto the Complainant having appeared and pleaded, the same came to be tryed at the last Assizes for the County of *Surry*, before Mr. Justice *Twisden*, at which time the Complainants Counsel informing the Judge that it would be a long Cause, it was put off on their motion, to be tryed the last Cause at that Assises, and a time appointed by the Judge for the tryal thereof, which came on accordingly in the presence of the Complainants Counsel and Witnesses, who were fully heard. And this Defendant *J. H.* and the said *A.* his Wife having produced and proved the Deed of Purchase, and proved a good Title to the said two Houses, by and under the said Lease made by this Defendant *J. S.* who, and those under whom he claimed, having had near forty years possession since the said Purchase, from the said last mentioned *N. W.* and thereupon, and upon producing the Registry of the said Will, which by reason of the length of time was admitted to be good Evidence: This Defendant *J. H.* and his Wife's, Lessee in the Ejectment, obtained a Verdict against the Complainant for the said two Houses or Tenements, which was all that they declared for, as by the Proceedings thereof remaining of Record in the said Court of *Kings-Bench*, it doth and may more fully appear. All which matters these Defendants

dants do plead in bar to the Complainants said Bill of Complaint, and to the discovery and relief thereby prayed. And these Defendants do also demur to so much of the said Bill as is not herein after answered. And for cause of Demurrer say, That the Complainants Bill contains not any ground or foundation of Equity wherein this honourable Court can or may afford the Complainant any Decree or relief against these Defendants, as they are advised, for that the matters therein set forth, are meerly tryable by a Jury, at and by the Common Law of this Kingdom, and may and ought to be there offered and given in Evidence, and ought not to be drawn unto any farther examination into this Court, especially in regard the said former Bill and Proceedings are still depending, whereon the Complainant hath had or may have such discovery, and such aid and assistance as to the examination of his Witnesses, as he prayed, or is usually afforded or can be afforded, as these Defendants are advised. And also for that in case the Allegations of the Complainants Bill were true, that the Complainant could not produce his Witnesses at the said Tryal, which with his Council were then absent, whereby he was surprized as is pretended, the Complainant may and ought to make his application to the said Court, where the said Action was brought, for a new Tryal, or for such other direction or rule therein as they shall think fit, who

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are

are the proper Judges thereof, or else the Complainant may bring such Action or Actions at Law for the recovery thereof, if he have any Title, as he shall be advised. And for that the said *A.* the Wife of the Defendant *J. H.* who is one of the Lessors, and is a joynt Tenant with this Defendant her Husband, is not made a party to the said Bill. And therefore, and for the reasons in the Plea set forth, these Defendants do demur in Law to the said Bill, and humbly demand the Judgment of this Honourable Court, whether they shall be compelled to Answer to so much of the said Bill; but for Answer to the residue thereof, they these Defendants do jointly and severally deny all manner of fraud, practice, combination or confedrac-y whatsoever, by the Bill laid to their charges, or otherwise howsoever. And humbly pray to be hence dismissed with their costs and charges in this behalf most wrongfully sustained.

Geo. Hutchins.

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The Demurrer of Sir A. N. Baronet, one of the Defendants to the Bill of Complaint of Sir T. R. J. R. and W. R. Complainants.

The Plaintiffs, Executors of K. N. Exhibiting their Bill for Arrears of an Annuity due to the Testatrix at her death, and to have the Defendants Sir A. N. and L. N. pay it with Damages and Costs, and alledging that Sir A. N. gave Bond or Covenants to K. N. in her Life-time for 180 l. Arrears of the Annuity, which is come to the Defendant Sir A.'s hands, and detained by him, and that afterwards Sir A. Exhibited his Bill against the Testatrix, the surviving Executor of Sir J. N. and L. N. to be relieved against the Rent and Arrears, and to place the same on the Executor and L. N. The Defendant Sir A. N. Demurs, and for cause thereof saith, That the Bill contains no Equity to ground any Decree upon, not only for that the Plaintiffs of their own shewing have the Grant which created the Rent-Charge, and nothing hinders them from suing at Law. And for that the Complainants have not made the usual Oath, That there was such Bond or Covenant, and that they know not what is become of the same; but also for that it doth not appear by the Bill, that the Court made any Decree against the Defendant for the Annuity or Arrears, or that any Decree was for the benefit of K. N.

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THIS Defendant by Protestation not confessing or acknowledging all or any of the matters or things in the said Bill of Complaint contained to be true in such manner and form as therein and thereby they are alledged, saith, That the main end and scope thereof being to have the Arrears of the thirty pounds *per annum* Rent-charge thereby alledged to be due unto K. N. therein named, at her Death, paid unto them by this Defendant and L. N. the other Defendant, with damages and Costs, and for that purpose alledge, That by the Grant of the said pretended Rent-Charge, alledged to be in their custody, and to bear date the twelfth day of *January*, one thousand six hundred fifty two, the whole Estate of the said Sir J. N. said to be two thousand pounds *per annum*, and upward, and the whole Estate of this Defendant his Son and Heir, worth five hundred pounds *per annum* was liable by distress to satisfy the same to W. N. deceased therein named, his Executors, Administrators and Assigns, for ninety nine years, if he and the said K. or either of them should so long live. And the said Bill doth farther set forth, That in or about the year one thousand six hundred and seventy, the said Sir J. conveyed part of his said Lands to the Defendant L. chargeable with ten pounds *per annum*, if the said Rent-charge, payable to the said K. who the Bill alledgeth was then intituled by the devise of, and as Executrix to the said W. to the whole

whole Rent-charge for the residue of the said Term, determinable with her own death, and likewise alledge, That the said Rent being in arrear ever since the year one thousand six hundred seventy five, That the said Sir J. dyed, leaving a personal Estate come to the hands of his Executors *W. N.* his Son and *J. N.* his Grandson, more than sufficient to pay his Debts, and leaving two thousand pounds *per annum* and upwards in Lands, Tenements and Hereditaments to come to the Defendant his Son and Heir. And that afterwards the said *L.* and this Defendant suffering the said Rent to run one hundred and fourscore pounds, and upwards, in arrear, this Defendant gave his Bond, Covenant or Agreement in Writing as a farther Security for those Arrears, payable to the said *K.* her Executors or Administrators, which they alledge is come to the hands of this Defendant, and to be detained by him from them, and that afterwards this Defendant designing to defraud her of her Arrears, Exhibited a Bill in this Court, against her and *W. N.* the surviving Executor of Sir *J.* and *L. N.* to be relieved against the said Rent and Arrears, and seeking to place the same on the said *W.* and *L.* upon the Allegations in the Complainants said Bill set forth, and on the 11th day of *June*, in the thirty fifth year of the Reign of our Sovereign Lord King *Charles* the Second, the cause being heard, *L. N.* was decreed to pay, free and discharge this Defendant,

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against

against ten pounds *per annum* therefore out of the Lands settled on him by Sir J. to that end. And that this Defendant should be chargable with no more than twenty pounds *per annum* therefore from Sir J.'s death to the end of the term. And that afterwards about *April*, one thousand six hundred eighty four, the said K. dyed, having two hundred and seventy pounds and upward, due and in arrears to her, besides costs, having first, as pretended, made her last Will, and the Plaintiff Executor, which they alledged is proved by one, with liberty for the rest to come in and prove, and that by virtue of the Will they were intituled to the Arrears, and had demanded them, which the Defendants refuse to pay, on pretence that K. had no right or title, or that if she had a right, she released it shortly before her death, or else that she received these Arrears, or a great part thereof, and that there was not two hundred and seventy pounds due at her death. To which Bill and all the discovery and relief thereby prayed as against him this Defendant, he this Defendant doth Demur in Law, and for cause of demurrer saith, That the same contains not any Equity to ground any Decree upon, or to gain any such discovery or relief, as thereby prayed; not only for that the said Complainants of their own shewing, have the Grant which created the said pretended Rent-charge, and there is nothing alledged by the said Bill that hinders their suing for
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and recovering their pretended Arrears by the Common Law. And for that the said Complainants nor either of them have made the usual Oath, That there was such Bond, Covenant or Agreement in Writing, made or given by this Defendant to the purpose, for the end in the Bill alledged, nor that they nor either of them have or know what is become of the same, and annexed that Oath to their Bill, or filed it in this Court, but also for that it doth not appear by the said Bill, that this Court made any Decree against this Defendant for the said Annuity, or the Arrears thereof, or any Decree for the benefit of the said K. N. nor is the surviving Executor of the said Sir J. made a party to the Complainants said Bill, who alone appears, by the Plaintiffs own shewing, to be accountable to the said Complainant for all such Monies as incurred and grew due in the said Sir J.'s life-time; nor doth there any thing to the contrary appear, than that this Defendant was any other than a bare Surety for Sir J. and had not any consideration for joyn- ing in the said pretended Grant with his said Father, nor for entring into any Bond, Covenant or Agreement relating to the said Rent, in case any such there be. Therefore, and for many other errors, defects and imperfections in the said Bill contained, this Defendant doth abide in Law, and doth demand the Judgment of this honourable Court, whether he shall be compelled to make any other or farther Answer

to the said Bill, and prays to be dismissed with his Costs.

Geo. Hutchins.

The Demurrer, Plea and Answer of E. N. one of the Defendants to the Bill of Complaint of T. R. J. R. and W. R. Complainants.

THE said Defendant by Protestation not confessing or acknowledging all or any the matters or things in the said Bill of Complaint contained to be true, in such sort, manner and form as therein and thereby they are set forth, saith That the Scope of the Bill being to be relieved for, and to have and receive from the Defendants therein named, the Sum of two hundred and seventy pounds, for the Arrears of the thirty pounds *per annum*, Annuity, thereby pretended to be due unto them, as Executors of K. N. unto whom it is pretended, That Sir J. N. Father of this Defendants late Husband Sir A. N. did, together with the said Sir A. by Indenture dated the twelfth of *January*, one thousand six hundred fifty three, give, convey, set over, grant and confirm the same Annuity unto W. N. Husband of the said K. N. to hold to him his Executors and Assigns, from the four and twentieth day

day of June then next following, for and during the full term of ninety nine years, if the said *W.* and *K.* or either of them lived so long, payable Quarterly, and leviable by Distress on any of the Lands of the said Sir *J.* or of the said Sir *A.* at the choice and election of him the said *W.* and his Assigns, to make farther assurance, which Rent it is pretended was paid by the said Sir *J.* unto the said *W. N.* until his death, and afterwards continued to be paid by him the said Sir *J.* unto the said *K.* until the year one thousand six hundred seventy five, that the said Sir *J.* dyed, leaving his Estate, alledged to be about two thousand pounds *per annum*, settled by himself and the said Sir *A.* upon Trustees, for payment of his and the said Sir *A.*'s Debts, and all Annuities and Incumbrances whatsoever, created by them and by subsequent Agreements and Deeds pretended to be contrived between the said Sir *A.* and the Trustees with the Defendants named in the Bill, are alledged to have charged to pay. And that afterwards when the said Annuity was one hundred and eighty pounds in Arrears, the said Sir *A.* was Arrested, and as the Plaintiffs had heard and believed, gave some Bond, Engagement, Covenant or Agreement in Writing, left in the hands of Mr. *F.* the said *K.*'s Attorney, or of his Servant, Clerk, or some other, for the said *K.*'s use, as a farther Security for the payment of the same. But that the said *F.*
being

being dead, it is pretended the Plaintiffs know not what is become of it, but had heard and believed that the said Sir *A.* or some one on his behalf, or with his privy had got and cancelled, made void or concealed the same; And that afterwards in or about the year one thousand six hundred and eighty, the said Sir *A.* Exhibited his Bill into this honourable Court, against the said *K. N.* the Defendant *L. N.* on whom, as was thereby alledged, the said Sir *J.* had settled Lands to pay ten pounds *per annum* of the said Annuity, and also against the Defendant *W. N.* and one *J. N.* since dead, the said Sir *J.*'s Executors, and others, to be relieved against and to subject the said Sir *J.* to the payment of the said Rents and Arrears, forasmuch as the said Sir *A.* did thereby alledge himself to be no other than as a Surety for the said Sir *J.* and that he had the said Sir *J.*'s promise for his indemnity. But that upon the hearing the eleventh day of *June*, in the five and thirtieth year of King *Charles* the Second, the said Sir *A.* was relieved against no more than ten pounds *per annum* of the said Annuity, ever since the said Sir *J.*'s death, which thereby the Defendant *L.* was decreed to pay and free and discharge the said Sir *A.* thereof, this Court declaring, as was alledged by the said now Plaintiffs Bill, that the said Sir *A.* should be charged with no greater a proportion than twenty pounds *per annum*, ever since the said Sir *J.*'s death. And the

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the said now Plaintiffs Bill farther alledg-
ing, That afterwards in the year one thou-
sand six hundred eighty four, the said K.
died, whereby the farther payment of the
said Annuity ceased, and that then there
was due the Sum demanded by the Plain-
tiffs Bill, for Arrears, besides Costs, which
by the same Bill the said Plaintiffs seek
to have with damages, as likewise the be-
nefit of the said Decree, made in the said
Sir A.'s said Cause. To so much of which
said Bill as is not herein after pleaded and
answered, this Defendant demurs in Law,
and for cause of Demurrer shews, That
if the Decree set forth in the Complai-
nants said Bill be such as the said K. could
recover any thing upon against this De-
fendant, the said Complainants ought to
have sought their recovery on the same by
Scire Facias, and no other course, they claim-
ing in privity as her Executors, but if there-
on they could not recover that way, this
Defendant for farther cause of Demurrer
sheweth, That the said Complainants ought
to do it by Law, or no other way, in as
much as it doth not appear, That the Con-
sideration for the said Grant was any other
than natural Love and Affection, or some-
thing else, not valuable, which is in no
case ever aided or assisted by this Court,
nor ought the said Complainants to have
any Answer or discovery to that part of
their Bill which seeks to know whether
there was any such Grant of the said An-
nuity and Bond, Ingagement, Covenant or
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Agreement in Writing, for securing any Arrears thereof, as is in the said Bill alledged, or what is become of the same, for that the said Complainants have not made the usual Oath, That there was any such Grant, Bond, Ingagement, Covenant or Agreement in Writing, and that they nor either of them had the same, nor knew what was become thereof, unless the said Defendants or some of them had the same, or some or one of those Securities, and annexed that their Oath to their Bill, or filed the same in the Office for filing Affidavits in this Court, which is not done; Therefore, and for that though it appears of the Plaintiffs own shewing, in and by their said Bill, That J. N. one of the said Sir J.'s Executors is dead, and that A. N. his Relict is Executrix, but is not made a Defendant, who, or one of whom, may have paid or otherwise discharged the Arrears of the said Annuity claimed by the said Complainants, and by Answer might have set forth as much, which would have been a good discharge to this Defendant: This Defendant doth therefore abide in Law, and demands the Judgment of this honourable Court, whether he shall be compelled to give any Answer to so much of the said Bill as is not herein after pleaded and answered unto. And to the rest of the said Bill not herein before demurred and herein after answered unto, this Defendant pleads and for Plea saith, That the said Sir J. N. having power to charge his whole Estate with

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with four thousand pounds, and to dispose of the Fee of two Tenements called *Row* and *Shute*, worth one hundred and twenty pounds *per annum*, at least, did by Deed indented, under the Hand and Seal of the said Sir *J. N.* bearing date the thirteenth day of *October*, in the one and twentieth year of the Reign of his late Majesty King *Charles* the Second, made or mentioned to be made, between himself of the one part, *Robert Fortescue*, Esq; deceased, *John Hale*, Esq; *John Northcot*, Esq; *John Quick*, Esq; *George Young*, Gentleman, and the Plaintiff *John Row* of the other part, declared among other things, That the said four thousand pounds, and the said two Tenements called *Row* and *Shute* should be subject to the payment of all his Debts in general, whereof (if that which the said Complainants by their said Bill claim, be a just Debt) the same is the said Sir *J.*'s and none else, and comes in with that Trust; for this Defendant doth aver and believe, That the said Sir *A.* never had any consideration, directly or indirectly for joyning with his said Father for securing of the same or any part thereof. And for farther Plea saith, The said Sir *J.* did afterwards on his last Will and Testament, recite his power as touching the said four thousand pounds, and appoint that the same should be paid to his Executors, *J.* his Grandson and *W.* his Son, and subject to his Debts, and gives the Fee of his said two Tenements to his said Grandson *J.* who

who being dead, the said Tenements did descend unto and upon *A. N.* Esq; as Brother and Heir of the said *J.* who is also since dead without issue, and *J. N.* of *Esq;* is his Heir, and one of the Trustees in the Deed before-recited. And the said Defendant *W. N.* is Executor of the said *A.* and *A. N.* is Executrix of the said *J. N.* one of the said Sir *J. N.*'s Executors, and Devisee of the Inheritance of the said two Tenements, neither the said *J. N.* the Heir of *A.* and *J.* the Devisee, nor the said *A.* the said *J.* the Devisees Executrix, nor the said *W.* *quatenus* Devisee of the said two Tenements, by the said *A.*'s said Will were made Defendants, who might have paid the said Arrears claimed by the Plaintiffs, or otherwise be released or discharged of the same. All which matters so before pleaded, this Defendant avers are true; And to the rest this Defendant for Answer saith, and denyeth that she knows or believes that the said Sir *A.* did ever hold any of the Estate of the said Sir *J.* upon any trust to pay his the said Sir *J.*'s Debts, or any of them. And lastly denies all combination by the said Bill laid to her charge, but confesseth that the said Sir *A. N.* is dead and that she this Defendant is his Executrix, and that Sir *F. N.* in the Bill named, is Heir of the said Sir *A.* Without that that any other matter or thing in the Complainants Bill alledged material or effectual in the Law to make Answer unto, and not herein or hereby sufficiently

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ficiently answered unto, confessed, avoided, traversed or denied, pleaded or demurred unto, is true. All which the this Defendant is ready to aver, maintain and prove as this Honourable Court shall Award, and humbly prays to be hence dismissed with her Costs in this behalf sustained.

Hæc Responsio & hoc placitum capt. fuer. per Sacramentum Defendentis super Sacrosancta Evangelia. Et hec moraco. dictæ Defendentis capta fuit sine sacramento apud Kingsmupton in Com. Devon, tertio die Maij, Anno Regni Domini & Domine Willielmi & Mariæ, nunc Regis & Regine, Angliæ, &c. Secundo, coram nobis Commissionar. virtute Com. dict. Domini & Domine Regis & Regine, nobis & al. direct.

J. D.
J. W.

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The Defendant demurs, for that the Complainants Bill was dated and filed the twentieth of November last, and directed to Anthony Earl of Shaftsbury, Lord Chancellor, &c. At which time and some days before Sir Heneage Finch was appointed Lord Keeper, and being so filed and directed, was Exhibited coram non Iudice.

THE Defendant not confessing or acknowledging the Complainants Bill of Complaint or any the matters therein contained to be true, in such manner and form as they are therein set forth; for Demurrer thereunto saith, That the Complainants said Bill by the Record thereof appeareth to be dated and filed on the twentieth day of *November* last past, and is directed, To the Right Honourable *Anthony* Earl of *Shaftsbury*, Lord Chancellor of *England*. And the Complainant in and by the said Bill doth pray, That this Defendant may stand to and abide such Order and Decree in the Premisses as to his said Lordship shall seem meet. For which cause the Defendant doth demur in Law to the said Bill, in regard that at the day and time on which the said Bill bears date, and some days before, the Right Honourable Sir *Heneage Finch* Knight and Baronet, was by his Majesty that now is, and before such date of the said Bill appointed Lord Keeper of the Great Seal of *England*, and thereby the Power and Authority of the said *Anthony* Earl

Earl of Shaftsbury, as Lord Chancellor of England, did cease and determine, so that the Complainants Bill, as being directed to his said Lordship, was so filed and exhibited *coram non Judice*, and his Lordship had then no power or authority to hold Plea or take any Judicial Cognizance of any Suit in this honourable Court, for which cause, and for other defects in the said Bill appearing, this Defendant humbly demands the Judgment of this honourable Court, whether he shall make any Answer to the said Bill. And humbly prays to be dismissed, &c.

The Defendant Answers to part, and Demurs to the other part of the Complainants Bill brought against him for Fees, being under ten pounds, and therefore beneath the Dignity of the Court to take Cognizance of.

ALL Advantages of Exception to the incertainties and insufficiencies of the said Bill of Complaint to this Defendant now and at all times hereafter, being saved and reserved; for Answer to so much as this Defendant is advised is material for this Defendant to make Answer unto, this Defendant answereth and saith, That by the untrue insinuations and suggestions of the Complainant, who perswaded this Defendant that this Defendant had a good Title to a considerable personal Estate, which was late one J. J.'s by the Will of the

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said

saïd J. J. lately deceased. And farther the Complainant then told this Defendant that if this Defendant would imploy this Complainant as his *Chancery* Clerk, that he would engage the Defendant should recover a very considerable Sum of Mony, which perswasions and assurances this Defendant giving belief to, did employ this Complainant as his Clerk in Court, and did promise the saïd Complainant to pay him all such Fees as should be due to the saïd Complainant, and also all such Sums of Mony as the Complainant should expend on this Defendants account in the saïd Cause, after which the Complainant did direct and bring a Bill in this honourable Court, in the name and on the behalf of this Defendant, as in the Complainants Bill of Complaint is set forth against the Persons mentioned in the saïd Bill. To which the saïd Parties put in their Answers, after which this Defendant was advised to move to have the saïd Bill dismiss with twenty shillings Costs, which by Order of this honourable Court was ordered to be dismissed accordingly, so that this Defendant had no farther advantage by the saïd Suit, than to spend his Mony and time. And this Defendant farther saith, That from time to time this Defendant did pay to the saïd Complainant all Sums of Mony that the Complainant did expend in the prosecuting the saïd Suit as well as all the Fees that were demanded by or due to the Complainant, and the

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Complainant was so far from expending his own Mony, or having any due to him in the prosecuting the Cause, that this Defendant at the request and intreaty of the Complainant was forced at some times to let the Complainant have Mony beforehand to prosecute the said Suit, the Complainant, as this Defendant believes, not being able to defray the Charges with his own Mony, so that this Defendant verily believes that he paid the said Complainant more than upon a just Account would appear to be due to him; yet nevertheless the said Complainant to vex, trouble and put to charges this Defendant, did bring an Action in the Sheriffs Court in *London*, for 12 *l.* as due for his Fees and Expences in the said Suit. To which this Defendant appeared, and the said Complainant was non-suited. And this Defendant denies that he ever promised the Sum of one hundred pounds, or any other Sum for a Gratuity, as in the Bill is set forth; nevertheless, since the said payments as aforesaid, this Defendant did receive a Bill or Note from the Complainant, which said Note or Bill is under the Hand of the said Complainant, by which he demands 6 *l.* 2 *s.* 4 *d.* as due to him for Fees and Expences in the said Cause, under which said Note or Bill is a *Memorandum* that the Complainant had received the Sum of 1 *l.* 0 *s.* 6 *d.* So that upon the Ballance there remained to the said Complainant of the said pretended demand, but 5 *l.* 2 *s.*

a Copy of which Bill is annexed to this Defendants Answer, which the said Defendant prays may be taken as part of this his Answer, the Bill or Note being in this Defendants custody, and ready to be produced. Now for that the Complainant by the said Bill of Complaint here demanded the Sum of 15 *l.* 13 *s.* 10 *d.* or thereabouts to be due to him on his Bills delivered to this Defendant. And for that by the Bill it may and will appear, that the Complainants demands were but 6 *l.* 2 *s.* 4 *d.* and that part thereof is satisfied, as by the said Bill and Note appears, so that there remains as pretended due but 5 *l.* 2 *s.* for which reasons this Defendant doth demur to the said Bill, for that by the Complainants Bill delivered, there remains due but 5 *l.* 2 *s.* which being a Cause of so small a value and consequence it is beneath the Dignity of this honourable Court to take any cognizance thereof, therefore for the reasons aforesaid, this Defendant doth demur, and humbly prays to be hence dismissed with his full costs and charges, and denies all manner of combination in the Bill charged, without that that any other matter or thing in the Complainants said Bill of Complaint contained, &c.

The Defendant demurs to the Complainants Bill of Review, for that no Bill of Review ought to be admitted to alter a Decree for Errors in Law appearing in the Body of the Decree, as it is drawn up and enrolled, or of new matters arising after the Decree, or of such matter of which the Complainant could have notice at the time of the Decree. And for Cause of Demurrer shews, That the pretence of the Bill of Review for assigning Errors in the Decree, being for decreeing for the Defendant against the Plaintiffs own Bill, and pretending abatement of Suit before the Decree past, are only formal Exceptions, and for the pretence of miscasting, that, if any be, it may be amended by motion.

THIS Defendant by protestation not confessing or acknowledging all or any of the matters and things in the said Bill of Review contained, other than what is contained in the Decree upon Record, which the Bill seeks to Reverse, to be true in such manner and form as the same are thereby set forth and alledged, saith, That by the constant Rules of this Court, no Bill of Review ought to be admitted to alter or change matters decreed, either for Error in Law appearing in the Body of the Decree as 'tis drawn up and inrolled, or for new matters arisen since the Decree, or such matter of which the Complainant in the Bill of Review could have

notice at the time of the Decree or decreetal Order. And therefore and for that the matters assigned by the Bill for cause of Reversal of the said Decree, are neither any Error in Law apparent in the body of the Decree, nor any such new matters as aforesaid, but are only a pretence of misjudging in matter of form only, and not in point of Right. And for that the pretence of the Bill for the decreeing for a Defendant against a Complainant on his own Bill, and the pretence of the abatement of the Suit before the Decree past, are only Exceptions of formality, and for that the other pretended Error in miscasting, if any such be, is amendable by a motion, and for that the Bill of Review contains in it no Equity, this Defendant doth demur in Law thereunto, and humbly insists upon it, that the said Decree ought not for any the Causes aforesaid assigned by the Bill, to be revived or reversed, being, for ought appears thereby, well grounded. And humbly demands the judgment of this honourable Court, whether he shall be compelled to make any farther or other Answer thereunto, and humbly prays to be hence dismissed with his Costs.

*The Defendant demurs to the Complainants
Replication, because it departs from the Bill.*

THese Defendants say they are advised That the said Replication is insufficient to be rejoined unto, for that the scope of the Bill is to be relieved against these Defendants upon supposed Articles of Agreement, alledged to have been made between the Complainants and these Defendants, whereby it is alledged, That these Defendants for 500 l. ought to Convey Lands and Tenements in the Bill mentioned, and all the Estate therein to the Repliant. The Bill suggesting that these Defendants were intituled in the right of the Defendant E. as one of the Sisters and Coheirs of L. K. her late Brother deceased and that the Plaintiffs were intituled by virtue of a Settlement. And by the Replication the Plaintiff alledged, That some other persons to the use of these Defendants or the Plaintiff, or by their consent, was or were in the possession of the Premises, and took the Rents thereof for the space of one whole year next before the making of the said Articles, which is another Title than the Complainant chargeth in his Bill, for the Complainant doth not pretend any possession in himself, or any under whom he claims, nor in these Defendants by the said Bill. And there-

fore the said Replication is a departure from the Bill, and by consequence is insufficient to be rejoined unto. And therefore these Defendants do demur thereunto, and humbly demand the judgment of this honourable Court thereupon, and pray to be dismissed with their Costs.

Demurrer for not setting forth a Will and making Oath of the loss of a Bond.

THE Defendant by protestation not confessing, &c. for demurrer saith, That the Complainant by her Bill (as this Defendant is advised) endeavours to entitle her self to a Sum of Mony due upon a Bond pretended to be entred into by this Defendant to R. W. her late Husband, deceased, and suggests for Equity, That the said Bond was burned in the late Fire in S. To which this Defendant demurs, and for cause of demurrer saith, That the Complainant hath not by her said Bill intituled her self to the Mony due upon the Bond, in case any such Bond was, which this Defendant doth in no sort admit, for that the Complainant by her Bill doth not set forth the Probate of the Will, under the Seal of the Spiritual Court, to intitle her self to the Estate of W. R. her late deceased Husband, and doth not profer to prduce the same under Seal to this Court, nor refer her self thereto. And for that the Bill doth not contain any Equity for that the said Complainant hath not made Oath,
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that the said Bond is burnt or lost, as by the Rules and constant practice of the Court she ought to have done, wherefore and for divers other Errors and Imperfections, in the said Bill appearing, this Defendant doth Demur in Law thereto, and humbly demands the Judgment of this honourable Court, whether he shall be compelled, &c.

The Demurrer of C. W. Defendant to the special matter of the Replication of T. J. Complainant.

TO so much of the said Replication as is special, and sets forth, That this Defendant did agree with the Repliant, that the Intestates Estate, &c. (*prout Replicatio*) This Defendant doth Demur, and for cause of Demurrer saith, That the same is not only a departure from, but is contrary to the Repliants Bill, for that the Bill chargeth, That the Repliant did refuse to execute the Articles drawn in reference to his paying the Intestates Creditors in equal degree, in proportion with his own Debts (in case he took the Administration.) And yet by the Replication he sets forth, That he did not release, wave or discharge the Articles, but seeks to be therein relieved, which he doth not do by his Bill. And had the pretended Agreement, now set forth by the Repliant, been charged

ed by the Bill, or any relief sought thereon, this Defendant might and would have answered the same upon his Oath, and would have had the benefit thereof, which he cannot now have by any Rejoynder, not being upon Oath, or else he might thereto have pleaded the Act for prevention of Frauds and Perjuries; wherefore, and for that no new matter ought to be put in Issue or Examined into upon any Replication, much less ought any Replication to contain matter contrary to the Bill, nor can this honourable Court make or ground any Decree upon such special matter (as this Defendant is advised) he demurs thereto, and prays to be hence dismissed with his Costs.

*The Demurrer of Dame T. J. alias B. Widow,
Defendant to the Bill of Review of E. B.
Gent. and B. M. Widow, Complainants.*

THIS Defendant by Protestation, not confessing, &c. doth demur thereunto, And for cause of Demurrer saith, That there is not any Error or Matter in the Law appearing in the body of the said Decree, or sufficiently shewed or suggested by the said Bill, upon or for which the said Decree, or any of the matters or things thereby settled and decreed ought to be reversed, set aside, impeached or altered, nor is there any new matter set forth sufficient

ficient for reviewing or reversing the same, nor doth it appear by the Bill, that the Plaintiffs have obtained any order or leave of this Court for bringing a Bill of Review upon new matter, as by the Rules of this Court they ought to have had, Therefore, and for that the said Decree as appeareth by the said Bill hath not been, nor in truth is performed by the now Complainants or either of them, who ought by the usual course and Rules of this honourable Court, as this Defendant is advised, fully to have performed the same, before they be admitted to a Bill of Review, and for that the Complainant hath not, for ought appears, given any Recognizance to pay costs, as by the course of the Court he ought, and for divers other errors and imperfections in the said Bill contained, this Defendant doth Demur in Law, and humbly abideth in the Judgment of this honourable Court, whether he shall be compelled to make any farther or other Answer to the same.

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The Joint and several Demurrer of
T. W. Esq; and J. H. Gent. two of
the Defendants to part, and Answer
to other part of the Bill of Complaint
of E. T. Gent. Complainant.

The Defendants Demur, for that the Bill contains several and distinct matters against several and distinct persons, and drawn to a great and unnecessary length, and they being but very little concerned, must be at great charges in taking out the Copy of the Bill and other Proceedings.

THese Defendants by protestation not confessing or acknowledging all or any the matters of the said Complainants Bill of Complaint to be true in such manner and sort as the same are therein and thereby set forth and declared, say, That they are advised by their Counsel, that the Complainants said Bill is insufficient, and to which by the Rules and Justice of this honourable Court, they these Defendants or either of them ought not to be compelled to make or give any Answer. And for cause of Demurrer thereunto, these Defendants say, That the said Bill containeth in it self several and distinct charges, for several and distinct matters, against several and distinct Defendants, which have not any relation or reference the one with
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the other, whereby the said Bill is drawn to a great and unnecessary length of above one hundred and twenty sheets of Paper. And these Defendants, although but very little concerned therein are thereby inforced to take out a Copy of the said Bill, and if these Defendants shall be inforced to Answer thereunto they must (if the Cause shall descend to issue) be put to unnecessary charge and expences in taking out the Copies of the Pleadings and Proofs which shall happen in this Cause which concerns the other Defendants, and whereunto these Defendants have not relation nor are any way pretended or supposed by the Bill to be concerned, which is against the constant practice and Justice of this honourable Court, and (if admitted) would prove to these Defendants extraordinary charge and vexation: Wherefore, and for divers other apparent Errors, Imperfections and Incertainties in the said Bill of Complaint contained, these Defendants do demur and abide in Law, and humbly demand the judgment of this honourable Court, whether they shall be compelled to make or give unto the said Complainants Bill any other or farther Answer than as hereafter they have answered. And for Answer only, these Defendants do severally and respectively deny all and all manner of combination whatsoever, wherein they or either of them are charged to the prejudice of the Complainant in any manner and
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fort whatsoever, and humbly pray to be hence dismissed with their Costs, &c.

The Answer and Demurrer of A. B. Esq; and G. W. Gent. two of the Defendants to the Bill of Complaint of E. T. A. F. and J. G. Complainants.

THese Defendants by Protestation not acknowledging or confessing the matters and things in the Complainants said Bill contained to be true in such manner and sort as therein and thereby is expressed, say, They are advised by their Counsel, that the Complainants by their Bill do seek to have an Account of the personal Estate of T. K. in the Bill named, who was one of the Daughters of J. T. Esq; deceased in the Bill also named, and also to have satisfaction of a Portion of one thousand five hundred pounds, provided for her the said K. (as is pretended by the said Complainants) by her said Father, to be raised out of certain Lands and Tenements, by virtue of a Deed and Conveyance, pretended to be made by the said J. T. near sixty years since, and likewise to have an Account and satisfaction of the Rents and Profits of all the real Estate which was the said J. T.'s. and whereunto the said Complainants pretend the said K. his Daughter had a right and title for some years before his death by Survivorship, and claims an eighth part to her

her and her Heirs as a Co-heir, and yet the said Complainants or any of them do not alledge or pretend themselves or any of them to be Executors or Administrators of the said K. nor Purchaser or Purchasers under her, but the said Complainant *A. F.* in the said Bill alledgeth and pretends that the said *K. T.* was indebted to him the Sum of three hundred pounds, and the said Complainant *J. G.* in and by the said Bill alledgeth and pretends that she the said *K.* was indebted to him the Sum of three hundred and fifty pounds, but neither of them do set forth how their said Debts became due unto them, nor when, nor whether upon any specialty or no, nor do they the said Complainants *F.* and *G.* or either of them so much as pretend they have any Deed or Conveyance, or Statute, Judgment or Recognizance, or any other Assurance or Security which may be charged or chargable upon any the real Estate, whereunto the said Complainants pretend the said *K.* to have any right or title. And the said other Complainant *E. T.* sets forth only a voluntary Conveyance to him made, by Dame *T. P.* in the Bill named for an other Defendant, before her intermarriage with Sir *J. P.* of all the Lands, Tenements and Hereditaments which were Sir *K. T.*'s who, as is alledged, had formerly conveyed the same to the said *T.* but the said *T.* doth not so much as alledge or pretend himself to be a Purchaser of the said Lands and premisses or
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any part thereof, for any valuable consideration, nor to have any other claim thereunto but only by the said voluntary Conveyance. And yet the said Bill being in length above ninety sheets of Paper, is Exhibited by the said Complainants against these Defendants and above seventy other persons, many of them concerned only as Tenants, some others as Purchasers for a valuable consideration, divers others as Agents, Attornies and Solicitors, who have been employed in the defence of several Actions at Common Law, and Suits in this honourable Court, which have been commenced and prosecuted heretofore concerning the Manors, Lands and Tenements, now in question, which said Bill these Defendants are advised by their Council for the causes and reasons aforesaid, is very insufficient, and such as, to which by the Rules and Justice of this honourable Court, they these Defendants ought not to make or give any Answer, other or otherwise than as herein after they have answered, the rather for that the same contains in it several and distinct charges against the several Defendants, which have not relation or coherence the one with the other, by which means the said Bill is drawn to a great and unnecessary length, as against these Defendants, who are charged only with a Combination amongst the other persons named for Defendants, and yet they must be forced to be put to unnecessary charge and vexation, if they should be compelled

pelled to Answer this Bill, which is against and contrary to the practice and justice of this honourable Court. And the principal Equity the Complainant pretends is want of Writings, yet they have not made any Oath of the loss thereof as they ought to do, nor have the Complainants made unto themselves any good Title, nor doth the Bill contain any Equity whereupon the Court, under favour, can proceed to make or ground any Decree as against these Defendants. For all which causes, and for divers other apparent Errors and Imperfections and Insufficiencies in the said Bill of Complaint appearing, these Defendants do demur in Law, and humbly demand the Judgment of this honourable Court, whether they shall be compelled to make any farther or other Answer thereunto, than what they do herein afterwards make Answer unto. And these Defendants for Answer to all the rest and residue of the said Bill of Complaint not herein before demurred unto, do say, and deny all Combination and Confederacy whatsoever, wherewith they or either of them are charged in and by the Complainants said Bill, and traverseth, &c.

The Demurrer of *R. B. Esq; E. M. R. B.*
and *W. F.* Defendants to the Bill of
Complaint of *A. M.* Complainant.

The Defendants having entred into a Statute of 1200 l. to pay the Complainant 600 l. within three Months after the death of his Father to whom he was Heir, for 50 l. in Money and 150 l. in Goods, and having received 300 l. and Exhibiting his Bill for relief against a Lease, pretended to be fraudulently obtained, and to have the other 300 l. The Defendants Demur, and for cause of Demurrer shew it was a corrupt Bargain, and contains in it not any manner of Equity.

THese Defendants do Demur to the said Bill, and for cause of Demurrer say, That it appears of the Complainants own shewing in and by his said Bill, that for fifty pounds in Money and one hundred and fifty pounds in Goods, he was by Agreement to have of this Defendant six hundred pounds, within three Months after the death of his this Defendants Father, which six hundred pounds was secured by a Statute of twelve hundred pounds, and that the Complainant hath received three hundred pounds of this Defendant *R. B.* for the said Debt, and released the same, and yet seeks the aid and assistance of this honourable

nourable Court, for setting aside the Release, that he may be enabled to recover the other three hundred pounds and interest, upon pretence that the said Release was obtained by fraud and circumvention; so that it appeared, That the original Contract for lending a small Sum to an Heir in the life time of his Father, and selling him an old parcel of branded Wares (valued at one hundred and fifty pounds which were not worth fifty pounds) and for which the Complainant was to have three for one, after the death of this Defendant R. B.'s Father, was in it self a corrupt and fraudulent Bargain, and such as this honourable Court, is so far from giving aid and assistance to, as that it always relieves against. And these Defendants are advised this honourable Court would have relieved the said R. B. against the said Statute on payment of the said fifty pounds, and the value of the said Goods, and also for that it appears of the Complainants own shewing, that he hath received three hundred pounds for the said Debt, which was much more than was honestly and conscionably due to him, and therefore, and for that the Complainants Bill contains not any manner of Equity for this Court to ground any Decree, or give the Complainant any assistance, as these Defendants are advised, they demur thereto and humbly demand the Judgment of this honourable Court, whether they shall be compelled to Answer

the said Bill, and pray to be dismissed with their Costs.

The Demurrer of *M. A. Widow*, one of the Defendants to the Bill of Complaint of *H. S. B. S. and M. S. Infants* by their Guardian, Complainants.

The Complainant by his Bill seeking aid of this Court, for examination of Witnesses to prove a Paper pretended to be a Lunatics Will, before his Lunacy, and to have the direction of the Court. The Defendant demurs, and for cause saith, That the Lunatick may dye, or have lucid intervals to revoke the said pretended Will, and for that it cannot be a Will during his Life, and for that the Committee of the Lunatick is not made a Defendant, nor will the Court make Evidence where there is no Evidence at Law.

THIS Defendant by Protestation not confessing or acknowledging all or any the matters and things in the Bill mentioned to be true, in such manner and form as the same are therein and thereby set forth, saith, That whereas the said Bill seeks to have aid of this honourable Court, for examination of Witnesses to a Paper in the Bill set forth, pretended to be the last Will and Testament of *J. S.* dated in *June*, one thousand six hundred seventy five, whereby several Manors and Lands in the Bill

Bill mentioned, are pretended to be bequeathed to the Complainant *H. S.* his half Brother, in Tail, with a remainder over to the other Plaintiffs his half Sisters, and to have farther relief in this Court, for that the said *J. S.* since the making of the said Will is become Lunatick, and was so found, and so continued, and that this Defendant was Heir at Law of the said Estate, to the said *J. S.* this Defendant doth demur thereto, and for cause of Demurrer saith, That it appears by the Bill that the said *J. S.* is still living, and though he be Lunatick, yet he may either recover from his Lunacy, or at least have such lucid intervals as to revoke or destroy the said pretended Writing, if such there be, and for that during the life of the said *J. S.* the pretended Paper cannot be his Will, and until it be a perfect Will there cannot nor ought not to be any examination of Witnesses thereto, nor will this honourable Court, as this Defendant is advised, extend any assistance in a case of this nature, touching examination of Witnesses to a supposed Will, in the life-time of the Devisor, or any way assist the proof of a supposed Will of a Lunatick; and the rather, for that it appears by the Bill, that the said pretended Devisors place of abode, and the County where his principal Seat and Estate lyes, is mistaken, so that it may be presumed, if any such Writing there be as is pretended, he was then under a Lunatical Distemper, and for that the Committee of

the Lunatick is not made a Defendant, nor any proceſs prayed againſt her as it ought to have been, and for that although this Defendant may be termed Heir preſumptive to the Lunatick, yet he may not be ſo at his death, if there ſhould be any examination of Witneſſes to prove the ſame pretended Paper to be declared by the ſaid Lunatick, for or as his Will, the ſame cannot be uſed againſt this Defendant, if ſhe ſurvive the Lunatick, as ſhe is adviſed, for that ſuch Depoſitions were taken in the life-time of the Deviſor, before any Title accrewed to this Defendant, whereof the Complainants being apprized they have by their Bill prayed farther relief of the Court, ſeeking thereby, as this Defendant is adviſed, to have ſome direction of this Court for the uſe of ſuch Depoſitions, which ought not to be granted, nor will this Court make Evidence which is not Evidence at Law, (as this Defendant is adviſed.) Wherefore, and for that the Bill contains not any Equity, nor any ground for this honourable Court to afford the Complainant any aſſiſtance for examination of Witneſſes, nor for any relief, and for many Errors and Imperfections in the Bill appearing, and for that the ſame is of an extraordinary nature, as well as of dangerous conſequence, this Defendant doth demur in Law to the ſaid Bill, and doth humbly demand the Judgment of this honourable Court whether ſhe ſhall be compelled to Answer the ſaid Bill, and prayeth to be hence diſmiſſed with her Coſts.

A Demurrer to a Bill, brought after the aid of this honourable Court, and liberty granted to proceed at Law to recover the Penalty of a Judgment.

THE said Defendant by protestation, not confessing or acknowledging all or any the matters in the said Complainants Bill set forth, in such manner and form as the same are therein and thereby set forth and alledged, for and by way of Demurrer thereunto saith, That it appears of the Complainants own shewing in and by their said Bill of Complaint, That the Complainant heretofore in the year one thousand six hundred seventy eight, exhibited a former Bill into this Court against this Defendant and others, to discover whether a Statute entred into by *S.T.* unto *R. D* and other Securities and Incumbrances were satisfied, to the end the Complainant might be let in to have satisfaction for a pretended Judgment (obtained by *R.H.* under whom the Complainants claim) of two thousand pounds on a Bond for the payment of one thousand three hundred pounds principal Mony, entred into by *S.T.* and Sir *A.T.* his Father, and twelve pounds for Costs; which said Judgment was subsequent to the said Statute to *D.* Which Cause was heard and referred to Account, and the said Statute entred to the said *D.* and other precedent Incumbrances

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found to be satisfied with an over-plus, and the Statute was in the said Suit set aside, as to the Complainants, and the Complainants were at liberty to proceed, and have since proceeded at Law upon the said Judgment, and were left at liberty to extend the Lands of the said S.T. thereon, and the precedent Incumbrances were not to be given in Evidence, whereby it appears of the Complainants own shewing, that the Complainants have had relief, and the Equity of their Cause hath had all the favour and justice which could be expected from this Court, and have by the aid of this Court their plain and proper remedy at Law to recover on the said Judgment, and ought not to have any farther aid or relief in this Court in a case of this nature. And for that the Complainants by their now Bill seek to have the aid and assistance of this Court to recover and be paid Interest and Costs beyond the Penalty of the Judgment (which Penalty being 2000 l. and 12 l. Costs this Defendant tendred at Common Law) which this Defendant is advised is not consistent with, nor agreeable to the Rules of this Court, to give Damages or Costs beyond the Penalty of the Security, and therefore this Defendant is advised that the Complainants ought not to have aid or relief of this honourable Court therein. Wherefore, and for that it is against the ancient Rules and Practice of this Court to extend or enlarge legal Securities beyond the Penalty of the same,

same, or to give any farther relief after a Decree formerly had touching the same matter, which may be occasion of a lawless Suit and Vexation. For which cause and divers other Errors and Imperfections in the said Bill appearing, this Defendant doth demur in Law thereunto, and humbly demands the Judgment of this honourable Court, whether he shall be compelled to Answer the Complainants Bill, and prays to be hence dismissed with his reasonable Costs and Charges in this behalf most wrongfully sustained.

The Demurrer of J. G. one of the Defendants to the Bill of Complaint of T. C. Clerk, Complainant.

A Demurrer to a Bill against several Complainants for distinct matters.

THE said Defendant by Protestation not acknowledging or confessing any the matters or things in the said Complainants Bill of Complaint contained to be true and just, in such manner and form as therein is set forth and declared, for Demurrer thereunto saith, That it appears by the Complainants own shewing in his said Bill, that there are above fifty Defendants thereby charged with several and distinct charges, not any dependance one upon another, and all for Tythes, pretended to be due
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severally to the Complainant, as Rector or Vicar of the Parish-Church, &c. in the Bill named, for which the said Complainant supposeth this Defendant and the other Defendants in the Bill named, have made a promise, That in consideration the said Complainant would forbear to prosecute the Law against them for the said Tythes, the Defendants would respectively pay him the several Monies in the Bill mentioned, pretended to be due by them: And the Complainant pretendeth he hath no remedy at the Common Law to force and compel this Defendant and the rest to keep and perform it, being made in private, and that he hath no Witnesse to prove it, and that he hath no remedy by the Ecclesiastical Law, nor can prove the said Composition at the Common Law, his Witnesses being dead, or living in remote places, And for the avoiding multiplicity of Suits, he prayeth the relief of this Court. Now for that if the Complainant hath right to Tythes, Thirds, or to any Composition of Tythes in the Bill mentioned, either he hath remedy at Law for them, and so needeth not the relief of this Court, or if he hath no remedy at Law then there is no ground or consideration for the Promise or Composition in the Bill mentioned, and for that it is very improbable, that a promise so lately made by so many Parishioners of a Parish as are Defendants to the said Bill, should be all dead or gone away in so short a time, and the said Complainant

nant by his own shewing hath forborn Suits but from the day of, &c. on which the promise is supposed to be made, and thereby it appeareth, that the Complainant doth endeavour rather to make than avoid multiplicity of Suits. Therefore, and for divers other apparent Errors and Imperfections in the said Bill appearing, this Defendant doth demur in Law to the said Bill, and humbly prays the Judgment of this honourable Court, and resteth therein, whether he shall be compelled to Answer thereunto, and farther prayeth to be hence dismissed with his reasonable Costs and Charges in this behalf most wrongfully had and sustained.

The Plea and Demurrer of *T. D. Kt.* and *Dame K. A.* two of the Defendants to the Bill of Complaint of *R. S.* and *A.* his Wife, by *T. S.* his Father and Guardian, Complainants.

The Bill being to recover a Marriage Portion, the Defendants plead the Plaintiff was never Married.

THE said Defendants by protestation not confessing all or any of the said matters of the said Complainants Bill of Complaint to be true, in such manner and sort as the same are therein and thereby set forth and declared, say, That the Complainant

nant by his said Bill seeks to have relief for a pretended Portion, in right of *A.* in the Bill named, whom he pretends by the Bill of Complaint to be his lawful Wife, and in whose right the Complainant demanded the said Portion: For Plea thereunto they say, That they are informed that the said *A.* is Sole and unmarried, and not Wife to the Complainant, as in his said Bill of Complaint is pretended, and never was coupled to him in lawful Matrimony. And these Defendants are the rather induced to believe the same, for that the said *A.* doth not live and cohabit with the said Complainant, and doth not acknowledge the said pretended Marriage, but that some words were unduly and unjustly extorted from her by force, which she doth not remember and hopes they were not binding to her, therefore these Defendants humbly demand the Judgment of this honourable Court, Whether the said Complainant shall be admitted to question these Defendants, for, touching or concerning the pretended Portion of the said *A.* before he shall first prove himself to be her lawful Husband; wherefore, and for divers other apparent Errors and Imperfections in the said Complainants Bill of Complaint contained, these Defendants do demur and abide in Law. And humbly demand the Judgment of this honourable Court, whether they shall be compelled to make and give any other or farther

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Answer to the said Complainants insufficient Bill of Complaint, and humbly pray to be hence dismissed with their reasonable Costs and Charges in this behalf most wrongfully sustained.

Exceptions

Exceptions to Answers.

The Scope of the Bill is to set aside a Fraudulent Will put up by the said P. H. the Defendant, and to have a particular Account of the several Estates of J. J. and R. J. deceased, the Complainant being intituled to the same, as the nearest Relation of the whole Blood, and Heir at Law to the said R. J.

Vide Bill in Title Bills of Fraud and Collusion. Sect. 1. Respons.

TO which the said Defendant hath put in an evasive and insufficient Answer, not giving any particular Account of either of the Estates of J. J. and R. J. deceased, as is required by the Complainants Bill, but insists upon a pretended Title to the same, by virtue of a fraudulent Will, pretended to be made by the said R. J. in her life-time, which Will, if any such there be, the Plaintiff avers, and is ready to maintain and prove, that the same was surreptitiously obtained, illegally executed, and unduly proved, with an intent to defraud the Complainant of the said R. J.'s Estate, for which reason the Plaintiff excepts against the said Defendants Answer, as insufficient in the several points following, viz.

Ex

Exception the First.

The Plaintiff excepts against the Defendants Answer as insufficient, for that she the said Defendant by her Answer pretends her self to be a Relation of the said R. J. her Mistress, but doth not set forth her Pedigree, and make it out how near of Blood and Related she was to the said R. J. all which she ought to have done. *Vide Respons.*

Exception the Second.

The Plaintiff excepts against the said Defendants Answer as insufficient, for that she the Defendant doth not set forth, whether the said R. J. did not make her last Will and Testament in Writing, and the Plaintiff Executor thereof, and whether she did not at the same time, as a Token of her kindness, give unto the Plaintiff her Husbands Watch: To which the Defendant makes no Answer, but believes the said R. J. might give the Plaintiff an old Watch, worth about fifteen shillings, but doth not set forth upon what account she gave the Plaintiff the same, nor whether the Watch so given the Plaintiff, was the Watch of the Husband of the said R. J. all which she ought to have done, it being required by the Plaintiffs Bill.

Ex-

Exception the Third.

The Plaintiff excepts against the Defendants Answer as insufficient, for that she the said Defendant doth not set forth how she procured and obtained her fraudulent Will to be executed by the said R. J. and who were the advisers therein. All which she ought to have done, it being required by the Plaintiffs Bill.

Exception the Fourth.

The Plaintiff excepts against the Defendants Answer as insufficient, for that the said Defendant hath not set forth what Gold, Silver, Plate, Rings, Jewels, Bills, Bonds, Leases, Mortgages, Judgments, Extents, Household - Goods and Utensils of Household-Stuff the said R. J. dyed possessed of, with the true values of the same, and annexed a Schedule to her Answer of the particulars thereof. All which she ought to have done, it being required by the Plaintiffs Bill, for which Reasons the Plaintiff excepts against the said Defendants Answer as insufficient, as to the several points excepted unto, and prays that she may amend her Answer as to the same.

Exceptions taken to the Answer of W. D. Defendant. to the Bill of Complaint of A. J. Widow, Complainant.

Bill.

THE bill is to have a discovery of the whole Estate that J. S. late of F. in the County of *Middlesex*, Gent. deceased, dyed possessed of, with the particulars and true values thereof, and wherein the same consisted, and also to compel the Defendant to pay a debt of twenty five pounds and Interest, due upon Bond to J. C. late of *London*, Baker, deceased, to whom the Plaintiff is Administratrix, and to Answer all and singular other the Premises in the Complainants Bill of Complaint charged, is the scope of the Bill, &c.

Respons.

Saith, That he believes it to be true, That the Plaintiff is Administratrix to J. C. late of *London*, Baker, deceased, but knows not the same of his own knowledge, neither doth he know that J. B. in the Bill named did make application to borrow of J. C. the Sum of twenty five pounds, or that there was any application made unto the said J. C. by A. B. and J. S. in the Bill mentioned, on the behalf of the said J. B. or that the said J. C. did about the

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time

time in the Bill mentioned, or at any other time, lend unto the said B. B. and S. or unto either of them the Sum of twenty five pounds, or any other Sum, or that there was any Bond entred into by the said B. B. and S. or either of them unto the said C. in his life-time, of the Penalty and for the payment of twenty five pounds as in the Bill mentioned, or any other Sum whatsoever, *f. 123 and 4.*

Saith, That he believes it to be true, that B. B. and S. are all dead, but whether B. and B. dyed Intestate or not, the Defendant knows not; denies that he is either Executor or Administrator to the said B. and B. or either of them, or that either of their Estates came to his hands, but confesseth that in or about the Month of *August*, one thousand six hundred seventy five *J. S.* made his last Will in Writing and the Defendant Executor thereof, and soon after dyed, which he proved, &c. and by virtue thereof possessed himself of the whole personal Estate of the said *J. S.* which was not nor is not near sufficient to pay and discharge his Funeral Expences, and Debts upon Bonds and Judgments, and sets forth a particular of S. his Estate in a Schedule annexed to his Answer, evasively, and without the values of certain Leases for term of years, &c. for which and several other Reasons the Plaintiff Excepts against the Defendants Answer as insufficient, &c.

Ex-

Exception the First.

For that the Defendant in his Answer f. 9. confesseth a Lease from Sir W. J. to S. for one and twenty years, at seventy two pounds *per annum*, and that there was ten years and a half to come at his death, but doth not set forth where the Estate so lies that was leased by the said Sir W. J. to the said S. nor the rent reserved, nor the Tenants names that have been in the possession of the same since the death of the said S. all which the Defendant ought to have done, so that the Plaintiff might have inquired into the same as to the rent reserved and value of the Premises, &c.

Exception the Second.

For that the Defendant in his Answer f. 10. confesseth that there came to his Hands a Lease granted from one Mr. P. to the said S. to whom the Defendant is Executor, as aforesaid, but doth not set forth whether the same Lease was of Houses or Lands, nor where the same lyes, nor the Tenants Names that are or were in possession of the same at the time of the said S. his death, nor what term of years were then or is still to come in the said Lease, only says that the same was at a rack Rent, which is altogether evasive, insomuch that the Plaintiffs cannot by any means inquire

Exceptions to Answers.

into or find out the true value of the same, &c.

Exception the Third.

For that the Defendant in his Answer f. 10 and 11 confesseth that there came to his hands a Lease granted from Sir N.C. at a rack Rent, and that the same expired the Christmas after the said S. his death, but doth not set forth whether the same Lease were of Houses or Land, nor where the same lyes, nor the Tenant or Tenants Names that were in possession at the time of the said S. his death, nor what Rent was then in arrear or owing by such Tenant or Tenants, &c. All which the Defendant ought to have done, so that the Plaintiff might have inquired into the same, for which Reasons, &c. the Plaintiff excepts against the Defendants Answer as insufficient, and prays that he may amend the same, &c.

Exceptions taken by the Complainants J. C. and T. D. to the Answer of E. T. one of the Defendants in the Bill of Complaint of the said Complainants.

THE end of the Complainants Bill is to be relieved against a pretended Settlement which the Defendant set up against the Complainants, who are Mortgagees of the

the Defendants Husband for twelve hundred pounds principal Mony, lent upon the Manor of *H.* and divers Messuages, Lands and other things in *H.* in the Isle of *Ely* and County of *Cambridge*. And the Complainants by their Bill, *f.* 6 and 7 particularly charge, That the Defendant *E.* and *T.* her pretended Daughter pretend and give out in Speeches, That upon the Defendants Marriage all the said Manor, Lands and Premisses conveyed for the Complainants Security, are settled upon Trustees for the use of the Defendant, for her Joynture, and after the decease of her and her Husband, to the Heirs Male of their Bodies, and for want of such issue to the use of their Heirs Female, or otherwise for the raising of several great and considerable Sums of Mony, for the Portions and Maintenance of such issue Female. And the said *T.* the Daughter of the Defendant *E.* and pretended Daughter of the Defendant her Husband, who is endeavoured to be set up for the only issue Female, such Daughter after the decease of the Defendant and her said Husband will be intitled to the whole Estate, or at least that two thousand or three thousand pounds or some other great Sum must be raised thereout by the Trustees for the Portion and Maintenance of the said pretended Daughter, beyond which the Mortgaged Estate will not be sufficient to secure the Complainants Monies, when in truth such Settlements and Incumbrances, if any, were

Exceptions to Answers.

voluntarily made and entred into, and such pretended Daughter set up by the said Defendant E. and connived at by the other Defendant her Husband, to defraud the Complainants of their said Monies, and therefore ought to be detected, and such voluntary Settlements set aside. And the Complainants being in nature of Purchasers, for a valuable Consideration, ought in the first place to receive their Monies lent with Interest. And f. 8 and 9. a discovery is prayed, whether the said Manor and Premises or some part of them, and what in particular were not upon the Marriage of the Defendant settled and conveyed unto and upon some persons, and what persons by name in Trust for such and such like uses and purposes, as before charged, and what in particular, and may set forth the dates and contents of such Conveyances or settlements, with the names of the Parties, and Witnesses thereunto, and at what time, and for what consideration the same were made and executed, and whether the Defendants have any issue Male or Female, and where such issue is.

Answer.

To which the Defendant by her Answer f. 3, 4 and 5. only saith, That before her Marriage with the other Defendant her said Husband, all and singular the Lands, Tenements and Hereditaments and Premises

misses, in the said Complainants said Bill of Complaint mentioned to be Mortgaged to the Complainant or a great part thereof, were (in Consideration of a Marriage then to be had between the said T.T. and the Defendant E. and which afterwards took effect) settled in Joynture upon the Defendant for her Life, to take effect in possession after the death of the said T.T. or of the said Defendant, or some other provision is thereby made for the issue of that Marriage.

Exception.

Which is no sufficient Answer, for that the Defendant doth not set forth the date of such Marriage Settlement, the Witnesses names, nor the contents thereof, nor Parties thereunto, which if she had pleaded, she must have done; nor doth she deny or set forth what portion or portions, or other maintenance the issue Female of the Marriage ought to have, or will insist upon; or what limitations are made to Trustees in such pretended Settlement; nor the particular Lands settled in Joynture upon the said Marriage. But the said Answer is altogether evasive, the Complainants not intending to impeach, but discover the Defendants Title and her Daughters Interest in the Mortgaged Premises, that they may take what prudent care is possible for the better security of the said Monies so really and *bona fide* lent. And therefore

Exceptions to Answers.

fore the Complainants do except to the said Answer. And pray the effect of their Bill of Complaint may be Answered as they may have the end of their Suit, and such relief therein as the nature of their Cause will admit.

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Replications.

The Replication of J. C. Gent. Complainant, to the Answer of C. L. Gent. Defendant to the said Repliants Bill of Complaint.

THE said Repliant saving to himself all A general Re-
advantages of Exception to the in-plication.
certainties, untruths and insufficiencies of
the Defendants said Answer, for Replica-
tion thereunto saith, That all and singular
the matters and things in the Repliants said
Bill contained are true, as the same are there-
in alledged. And that the Answer of the said
Defendant to the said Bill is very untrue,
imperfect and insufficient to be replied un-
to, and is ready to aver, maintain and
prove the same, as this honourable Court
shall Award, and humbly prays as in his
said Bill he hath prayed.

*The Replication of T. B. Administrator de bo-
nis non to R. P. late of London, C. de-
ceased, to the Answer of E. H. Esq; De-
fendant.*

THE said Repliant saving and refer- Another form
ving to himself now and at all times of a general
hereafter, all and all manner of advantage Replication.
of Exception to the incertainties and in-
sufficiencies

Replications.

sufficiencies of the said Defendants Answer; for Replication saith in all and every the matters and things, as in and by his said Bill of Complaint he hath already said, and will aver, justifie, maintain and prove his said Bill of Complaint, and all and every the matters and things therein contained, to be true, certain and sufficient, in such manner and form as the same are therein and thereby set forth and declared; and that the Answer of the said Defendant is very untrue and insufficient in the Law, by this Repliant to be replied unto, for divers manifest imperfections and incertainties therein contained, the benefit and advantage of exception being now and at all times hereafter saved unto this Repliant. And this Repliant for farther Replication saith, That the matters contained in his said Bill of Complaint are altogether relievable in this honourable Court, without that, That any other matter or thing in the said Defendants Answer contained material or effectual in the Law to be replied unto, and herein, and hereby not well and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things this Repliant is ready to aver, maintain and prove as this honourable Court shall award, and therefore prayeth as in and by his Bill he hath prayed.

The Replication of B. M. Clerk, to the several Answers of Sir W. S. Baronet, and H. K. Gent. Defendants.

THE said Repliant saving and reserving A special Replication.
to himself all advantages of exception to the incertainties and insufficiencies of the said Defendants Answer, for Replication saith in all and every the matters and things as in and by his said Bill of Complaint he hath already said and will aver, justifie, maintain and prove the said Bill of Complaint, and all and every the matters and things therein contained to be true, certain and sufficient, in such manner and form as the same are therein and thereby set forth and declared, and that the Answers of the said Defendants are very untrue and insufficient in the Law, by this Repliant to be replied unto, for divers manifest imperfections and incertainties therein contained, the benefit and advantage of Exceptions being now and at all times hereafter saved unto this Repliant. And this Repliant for farther Replication saith, That the matters contained in his said Bill of Complaint, are altogether relievable in this honourable Court, for that this Repliant knows not which of the Defendants are intituled to, or ought to pay the Tythes of the Premises to this Repliant, neither could this Defendant prove the Premises Tithable, without a Commission if

Repliations.

ſuing forth of this honourable Court, to Examine the ancient and infirm Pariſhioners of the ſaid Pariſh where the Premiſſes lye, who are unfit to travel to prove the matters *viva voce*, at any Tryal at the Common Law, could this Repliant have any remedy there, as in and by the ſaid Defendants Answers ſeverally, are vainly ſet forth. Without that, That any other matter or thing in the ſaid Defendants Answers contained, material or effectual in the Law to be replied unto, and herein not well and ſufficiently replied unto, confeſſed or avoided, traversed or denied, is true. All which matters and things this Repliant is ready to aver, maintain and prove as this honourable Court ſhall award. And prays as in and by his ſaid Bill he hath already prayed.

The

The Form of a Bill of Review.

A Bill of Review for R. B. Esq; against A. B. and J. C. Administrators, with the Will annexed of S. B.

IF the Decree made by the Lord North be signed and inrolled, get a Copy of the said Decree.

This must be a Bill of Review to Reverse the former Decree, and therefore set forth

That such a Term the Plaintiff Exhibited his Bill, the substance whereof is in the Order, that the Defendant Answered, Plaintiff Replied, Witnesses were examined and published, the Cause heard and decreed by the Lord Nottingham, re-heard and confirmed, put in the orders, and set out what was decreed.

Then the Petition for re-hearing to the Lord N. and the Decree made by him *pro-ut*, which is signed and inrolled, and thereupon the Plaintiff was constrained, to prevent proceedings on the said Statute, to pay over and besides the said seven hundred and twenty pounds, the pretended value of the Wines, and which was paid on granting the Injunction as aforesaid, but the Statute not yet delivered up nor vacated.

Since

Bills of Review.

Since then *B* dyed, having made his last Will and no Executors, or if any, they renounce, whereupon Letters of Administration *cum Testamento annexo* are granted to the persons *ut supra*, and that the Administrators have possessed *B.*'s personal Estate being of great value.

That the Plaintiff is aggrieved by the last Decree, which reverseth the Lord Nottingham's Decree, and the same is erroneous and ought to be reviewed and reversed.

For, That it appears even by the said Decree, that there was a very ill proceeding and contrivance in the then Defendant *B.* in obtaining the Statute of two thousand eight hundred and eighty pounds from the Plaintiff, an Heir, in the Lifetime of his Father; defeazanced for the payment of one thousand four hundred and forty pounds, at the end of twenty days after the Father's death, and that for a parcel of Wines, valued in the bargain at seven hundred and twenty pounds, so that as it appears by the Decree, supposing the Wines to be of the value of seven hundred and twenty pounds (which the Plaintiff doth not admit) the Defendant *B.* was to have double the same twenty days after the Father's death (whom he then told was confined to his Chamber by Sicknes, and who dyed soon after) which Bargain and Contract appears in it self, without any other evidence, to be fraudulent and corrupt, and against which this Court hath
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at all times granted relief, and discountenanced such Contracts. And the late Lord Keeper *North* himself soon after the making of this Decree, upon another re-hearing in the like case, between the Plaintiff and one *T.* for a parcel of , confirmed the late Earl of *Nottingham's* Decree, which was to the same effect, with this Decree made by his Lordship in this Case. And the late Lord Keeper *North* did afterwards in other Cases make the like Decree for setting aside fraudulent and unreasonable Bargains and Purchases; wherefore, and for that the Decree is apparently Erronious and unjust, and contrary to the Precedents of this Court, as well Ancient as Modern, the same ought to be reviewed and reversed, and the said first Decree made by the Lord *Nottingham* ought to stand and be confirmed, and your Orator ought to be repaid the same sum with Interest, which he paid the said *B.* who left Assets. To the end therefore that the said last Decree may be reviewed and reversed, and the said Mony repaid with Damages, and to that end, that the said Administrators may either admit Assets or discover *B's.* personal Estate, and the particulars and values thereof, and that your Orator may be relieved according to Justice.

Pray process against the Administrators
ad revidend. & ad respondend. the said
new matters.

In.

Interrogatories.

INTERROGATORIES to be Administred to R. C. Gentleman, upon a Contempt by him committed at the Suit of P. W. Gentleman, B. C. Widow and M. C. Widow, Complainants.

Interrogatories to be Administred upon a Contempt to one taken by a Sergeant at Arms.

I*mprimis*, Were you on or about the fourteenth day of *May* last, or at any other time, and when served with a Writ of Execution of a Decree made in this Cause, under the Seal of this Honourable Court, in yellow Wax, and with a Report made in this Cause by Sir *William Lacon Child*, Knight, one of the Masters of this Court, bearing date on or about the one and twentieth day of *February*, one thousand six hundred seventy two, by one of the Deputy Registers of this Court, by which Report the Master did certifie, That he had allowed a Conveyance to be sealed by you, for the transferring of the Trust, or to such or the like effect. Did the Party that so served you with the said Writ of Execution and Report, shew unto you the said Writ of Execution under Seal as aforesaid, and the said Report signed as aforesaid, and a Conveyance

veyance or Deed signed by the Master in testimony of his Allowance thereof, and did he give and deliver unto you, or leave with you, or in your presence, a Copy of the said Writ of Execution and of the said Report, or either and which of them, or tender the said Deed of Conveyance unto you, and desire or demand of you to sign, seal and deliver the same, and in all other things to obey and perform the said Writ of Execution, or to any or such, or the like effect. And were you by the said Decree to execute such Conveyance as should be allowed by the said Master? declare.

2. *Item*, Did you at the same time, or any other time and when, seal and execute the said Deed or Conveyance, and have you in all other things obeyed and performed the said Writ of Execution? Declare the truth herein.

3. *Item*, Were you on or about the said fourteenth day of *May* last, or at any other time, and when, served with a Writ of Execution, or other Writ under the Seal of this Honourable Court, in yellow Wax, whereby you were enjoined or commanded immediately after the receipt thereof to pay unto the Plaintiff *B. G.* or the bearer of the said Writ, the Sum of 9 *l.* 9 *s.* 11 *d.* to the Plaintiff *P. W.* or the bearer thereof, the Sum of 4 *l.* 15 *s.* 3 *d.* And to the Plaintiff *M. C.* or the bearer thereof, the Sum of 1 *l.* 11 *s.* 9 *d.* and what else was the Contents of the said Writ? And likewise were you on or about the said fourteenth day

Interrogatories.

of *May* last, or at any other time and when, served with a Writ of *Subpœna* for Costs, under the Seal of this Honourable Court in yellow Wax, whereby you were commanded to pay unto the said *P.W.* or the Bearer of the said *Sybpœna* 42 *l.* Did the party that served you with the said Writ of Execution and *Subpœna*, shew the said Writ of Execution and *Subpœna* to you under the Seal of this Honourable Court, as aforesaid, and deliver the same to you, or leave the same with you, or in your presence, and did he desire or demand of you to obey and perform the said several Writs of Execution and *Subpœna*, before mentioned, and to pay the said several and respective Sums of Mony before-mentioned, accordingly? Declare.

4. *Item*, Did you in obedience to the several Writs of Execution and *Subpœna*, then or at any time since and when, pay the said several Sums of 9 *l.* 9 *s.* 11 *d.* 4 *l.* 15 *s.* 3 *d.* 1 *l.* 11 *s.* 9 *d.* and 42 *l.* or any and which of them, to the parties that so served you with the said several Writs, or the persons to whom the same were respectively payable? Declare the truth herein, with the Reasons of such your contempt in this behalf.

Interrogatories to be administred to Witnesses produced to be Examined on the part and behalf of J. C. Gentleman, Son of R. C. deceased, and Administrator with his Will annexed of his Goods and Chattels unadministred, by A. C. Widow, and T. J. his Executors, deceased, Complainants, against C. Earl of M. Sir A. F. Knight, and T. J. his Trustee, Defendants.

I*mprimis* do you know the Parties Complainants and Defendants, or which of them do you know: Did you know Sir E. F. late of G. in the County of C. Baronet, R. C. and A. his Wife, E. M. T. J. and M. K. of London, Widow, all now deceased, or any and which of them did you know, and how long is it since the said Sir E. F. R. C. and A. his Wife, E. M. T. J. and M. K. or any and which of them severally dyed, express the time, and declare what you can say unto this Interrogatory on your knowledge, or all you have credibly heard and believe.

2. *Item*, Did you know the Messuage or Tenement and Lands in question in the Suit, called N. lying in S. in the County of C. in which formerly the said E. M. lived and held, and of what yearly value or reputed yearly value are the same, and who hath held the same and received the Rents, Issues and Profits thereof ever since the death of

Interrogatories.

the said *E. M.* which was in the said year, 1648. or for any and how many years of the said time? Declare what you can say to this Interrogatory on your knowledge, or as you have credibly heard and believe, with the reasons thereof.

3. *Item*, Were you present and a Witness when the said Sir *E. F.* did seal and deliver as his act and deed, the Indenture of Lease and Deed Poll now shewed unto you at the time of your examination, and both of them bearing date the 1st day of *June* in the 17th year of the Reign of our late Sovereign Lord King *Charles* the I. over *England*, &c. and is your Name indorsed on the back-side of the said Indenture or Deed Poll, as a Witness thereunto, of your own proper Hand-Writing; and are the Names *T. P. M. S.* &c. indorsed on the back-side of the said Indenture or Deed Poll, as Witnesses to the sealing and delivery thereof, of their or either and which of their own proper Hand-Writing, and what and how much yearly Rent is reserved upon the said Indenture of Lease you are now questioned about? Declare.

3. *Item*, Did you know *T. P. R. W.* &c. whose Names are written and indorsed on the back-side of the said Indenture of Lease and Deed Poll now shewed unto you at the time of your examination, the said Indenture of Lease and Deed Poll bearing date the first of *June* in the 17th year of the Reign of our late Sovereign Lord King *Charles* I. over *England*, &c. as Witnesses to the sealing and delivery thereof, or any and which of them did

Interrogatories.

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did you know, are all the said Witnesses dead as you know, believe or have heard? Declare what you can say to this Interrogatory on your knowledge or belief, with the reasons thereof.

5. *Item*, do you know or were you acquainted with the Character or Hand Writing of the said Sir E. F. and is the Name E. F. subscribed or written as a Party to the said Indenture of Lease, Deed Poll and Acquittance now shewed you, at the time of your Examination of his the said E. F.'s own proper Hand Writing? Declare what you can say to this Interrogatory on your knowledge or belief, with the Reasons thereof.

6. *Item*, Do you know of the payment of the sum of four hundred pounds in Mony, being the consideration Mony or Fine expressed in the said Indenture of Lease in the last preceding Interrogatory mentioned, or any or what part thereof, or any other Sum of Mony, and how much, by the said R. C. deceased, to the said Sir E. F. or to any to his use, and have you often or at any time heard the said Sir E. F. acknowledge or say that he had by himself or some other for his use and by his appointment, received the said Sum of four hundred pounds from the said deceased R. C. in full satisfaction for the fine or consideration of the said Lease in the third Interrogatory mentioned, and do you verily believe in your conscience that the said R. C. did truly pay to or for the use of the said Sir E. F. the aforesaid Sum of four hundred pounds for the fine of the

Interrogatories.

said Lease? Declare what you can say to this Interrogatory upon your knowledge or belief, with the reasons that induce you and cause you so to believe.

7. *Item*, Do you know or have credibly heard or believe that the said Sir E. F. made any settlement and when of his Manors, Lands and Tenements in the County of C. upon W. F. Esq; his Kinsman, Father of the now Defendant Sir A. F. and the Heirs Males of his Body, or of any Will in Writing whereby the said Sir E. F. gave and devised, as is pretended, his Manors, Lands, Tenements and Estate in the County of C. to the Defendant the E. of M. and his Heirs. And whether was such Settlement or devise of his the said Sir E. F.'s Estate made upon consideration of Mony paid, or was the same voluntary or without any consideration of Mony paid only for good will and natural love and affection? Declare what you can say to this Interrogatory, either upon your knowledge or all you have credibly heard or believe, with the reasons of such your belief.

8. *Item*, Do you know or have credibly heard and believe that Sir E. F. mortgaged the Manors of S. and B. and all the Lands and Tenements thereto belonging, to one Mrs. K. for securing the payment of fifteen hundred pounds and the Interest thereof, have you seen the said Deed of Mortgage made by the said Sir E. F. to the said Mrs. K. or any Counterpart or Copy thereof, what date beareth the said Deed of Mortgage, and how and at what time, and was the said

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fifteen hundred pounds to be paid back for the redemption of the said mortgaged Premises, and were the said mortgaged Premises redeemed from the said Mrs. K. in her life-time, and when and by whom, and what Monies were paid for the redemption thereof, and by whom? Declare, &c.

9. *Item*, When, or about what time and how long after the death of the said Sir E.F. did the said Mrs. K. or any on her behalf and who, enter upon the said Manors of S. and B. and the Lands and Tenements therein and thereto belonging, and of the Tenement and Lands called N. in particular, and receive and take the Rents, Issues and Profits thereof, and for how many years hath the said Mrs. K. and her Assigns, and who have been in possession of the said mortgaged Premises, and received the Rents Issues and Profits thereof, and what and how much may the same amount unto, and whether is the same Farm called N. within the said Manor of S. and what is the yearly value of the same? Declare, &c.

10. *Item*, Have you or some other person or persons, and who by name been employed as Bayliff or Agent, and by whom for the collecting and gathering of the Rents, Herriots and Profits of all the Messuages, Lands and Tenements within the Manors of S. and B. which late were the Inheritance of the said E. F. and to whom and for whose use and benefit have you paid or delivered the said Rents, Herriots and Profits, or did you know the said Rents, Herriots and

Interrogatories.

Profits to be paid or delivered from the death of the said Sir *F. F.* or from the year of our Lord, 1644. and for how long have or hath he or they received and had the same, and how much do the old Rents of the said Manor of *S.* and *B.* amount unto yearly, and how many years have you or any others and who collected the same since the death of the said Sir *E. F.* and to whom have you paid the same? Declare, &c.

11. *Item*, Do you know *S.* and the demesne Lands thereunto belonging, and the Mill called *S. Mill*, being part of the said Premisses Mortgaged to the said Mrs. *K.* of what yearly value or reputed yearly value are the same, who hath held and possessed the same ever since the death of the said Sir *E. F.* and what is the same worth yearly, and what Rent do you know to have been paid for the same by the year, and to whom and for whose use and benefit hath the same been paid since the death of the said Sir *E. F.* Declare, &c.

12. *Item*, What Tenements or Lands within the Manor of *S.* and *B.* which were the Inheritance of the said Sir *E. F.* do you hold or how long have you held the same, have you taken any new Lease of your said Tenement or Lands, since the death of the said Sir *E. F.* and from whom did you take the same, and what person or persons did seal and execute to you your said Lease, and what Fine paid you for the same, and to whom, what Rent have you paid yearly for your said Lands and Tenement, and to whom
and

and for whose use have you paid your said Rent since the death of the said Sir *E. F.* what Term do you claim to have in the said Tenement and Lands which you hold within the said Manor, for how long time is it that you paid your Rent to *W. F. Esq;* or to the now Defendant *A. F.* (now Sir *A. F.*) or to the Defendant *C. Earl of M.* or to or for them and either and which of them? Express the same particularly, and declare the truth according to your knowledge.

13. *Item*, What Tenants within the Manors of *S. and B.* have taken any Leases since the death of Sir *E. F.* of their Tenements which were the Inheritance of the said Sir *E. F.* from whom did they take the same, and what Fine or Fines did they pay, and to whom paid they their said Fines, and to whose use? Declare, &c.

14. *Item*, Do you know, or have you credibly heard or believe, or what can you say to prove that *R. H. E. P. A. L. and K. W.* or any and which of them or any other did take any Lease or Leases of several Tenements and Lands within the said Manor of *S. and B.* or either of them, from whom did they or either of them take the said Lease or Leases, and what and how much Fine or Fines did he, she or they pay for the same, and to whom and for whose use was the same paid, and what is the yearly Rent reserved upon each of the said Leases, and to whom is the said Rent now paid, and for how long hath it been so paid? Declare, &c.

15. *Item*,

Interrogatories.

15. *Item*, Do you know what Sum of Money, how much in the whole the old Rents reserved upon the several Leases of the Tenements within the Manor of S. and B. do amount unto yearly, and what and how much are the now increased Rents of the Common of B. how long hath part of the said Common been inclosed, and to whom have the same Rents been paid ever since the inclosure; were all the said new and old Rents paid to *W. F. Esq;* whilst he lived, and to the said Defendant *A. F.* and since *W. F.* deceased to the said Sir *A. F.* or to the Defendant the Earl of *M.* or all or any and which of them, express to whom in particular, and for how many years they or either and which of them have received the said new and old Rents, and what is the whole Sum thereof? Declare what you can say to this Interrogatory, as you know, have heard and do verily believe to be true.

16. *Item*, Do you know, or have you credibly heard, That the said *W. F.* and the now Defendant Sir *A. F.* his Son or some other person or persons on his or their behalf, and who by name did redeem the said mortgaged Premises from the said Mrs. *K.* when were the same so redeemed, and who hath received the Rents of the Tenants within the said Manor of S. and B. since the said redemption? Declare what you can say to this Interrogatory as you know, have heard or believe, and what induceth you, and the cause of such your belief.

17. *Item*,

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17. *Item*, Do you know or believe that the Manor of *S.* and *B.* and all the Lands and Tenements therein and thereunto belonging, with their appurtenances, which were the Inheritance of the said Sir *E. F.* which were mortgaged to the said Mrs. *K.* are worth ten thousand pounds to be sold, or what other sum or value do you verily believe they are worth to be sold, and whether do you know or believe that the same (excluding and leaving out the Farm called *Northwood*, leased to the said *R. C.*) are sufficient and much more than sufficient to satisfy the Money now justly due upon the said Mrs. *K.*'s Mortgage, in case the same be not satisfied in some short time? Declare the truth according to your knowledge.

18. *Item*, Whether do you know of any means and endeavours used, and what, shortly after *E. M.*'s decease, by *R. C.* and after his decease by his Executors, to have entered and have got possession of the Tenement and Lands called *N.* leased to the said *R. C.* by the said Sir *E. F.* Whether do you know or have you credibly heard of any Suit brought by the Executors of the said *R. C.* in or about the year of our Lord God, 1649. in the *Exchequer* Court of the County Palatine of *Chester*, against Mrs. *K.* or any other, and who, for the recovery and obtaining the possession of the said Tenement and Lands called *Northwood*, and what was the hindrance or impediment that they obtained not the same, was it that Mrs. *K.* had a prior Mortgage of the same from the said Sir *E. F.* or what was the

Interrogatories.

the impediment thereof? Declare the truth according to the best of your knowledge herein.

19. *Item*, What do you know of any Suit brought by *T. F.* the surviving Executor of *R.C.* in the Court of *Exchequer* of the County Palatine of *Chester* in or about the year, 1659. against *W. F.* and *A. F.* Esquires, and *J.W.* for the recovery of the Tenement and Lands called *Northwood*, and to have satisfaction for the Profits thereof received since the death of *E. M.* to that time, and whether did the said Cause proceed to a hearing and a Decree and what was the occasion of not performing thereof by the said *W. F.* and *A. F.* as you know or have credibly heard or believe? Declare what you know and can say to this Interrogatory.

20. *Item*, Whether are the several paper Writings now produced and shewed unto you at this the time of your examination, containing in number 8. And every of them according to their several denomination and import, true Copies of the Records of the Bill, Answers, Depositions, Orders and Award therein severally contained, in the Cause heretofore depending between the said *T. F.* Plaintiff, and the said *W. F.* and *A. F.* Esquires, and *J.W.* Defendants, in the said Court of *Exchequer* in the County Palatine of *Chester*, and how do you know them so to be, and where and with what, and how did you examine the same? Declare the truth herein.

21. *Item*,

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21. *Item*, How many Children did R. C. leave at the time of his decease, whether were they then taken care of, provided for or disposed of, or were they Infants very young and undisposed of, whether did the said R. C. lay out the greatest part of his Estate for the purchasing of the said Lease of *Northwood*, of the said Sir E. F. or whether were the Children of the said R. C. at his decease, left to be provided for, brought up and disposed of in the World, out of and by the benefit of the said Lease of *Northwood*? Declare what you know, have heard and believe, with the cause and reasons of such your belief.

22. *Item*, Do you know, or have you credibly heard and believe when and in what year the said Defendant the Earl of M. first entred upon and commenced Suit for the recovery of the Estate that was the said Sir E. F. and when did he recover the same, was it after the Suit of the said T. J. in the *Exchequer* Court of *Chester*, against the said W. F. A. F. and others, for the recovery of the said Tenement and Lands, called *Northwood*, leased to the said R. C. and a Decree made in the said Suit, who was then in possession of the said Sir E. F. his Estate, was the said Earl of M. then in possession thereof, or the said W. F. and A. F. or either and which of them, when did the said Earl of M. and his Agents first begin to receive the Rents, Issues and Profits of the said Manor of S. and B. and the Lands and Tenements, therein and thereto belonging, mortgaged to
the

Interrogatories.

the said Mrs. K. by the said Sir E.F. and how long, and to what time hath the said Earl of M. and his Agents continued to receive the Rents, Issues and Profits of the same? Declare what you can say to this Interrogatory, according to the best of your knowledge and belief, with the reasons of such your knowledge and belief.

23. *Item*, Do you know, have credibly heard or believe of any Reference proposed by any or either or which of the Defendants to the Complainant to refer the matters in question in this Suit to two indifferent persons to be chosen between them as Arbitrators, when and where was such proposal made, was it before or since the commencement of this Suit, was there any Arbitrators, and who named, and was you one of the persons named to be an Arbitrator on the Complainants side, and who was the Arbitrator on the Defendants side, were there any Bonds of Arbitration drawn, and by whom entred into, and of what Penalty, and what time was limited therein for the Arbitrators to make their Award, and did the said Arbitrators make any Award or Determination or not, if not, what was the obstruction or impediment that hindred them from so doing? Declare the same fully and at large.

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24. *Item*, Do you know of any other matter or thing, or have heard or can say any thing touching the matters in question, that may tend to the benefit and advantage of the Complainants in this Cause, besides what you have been before Interrogated unto? Declare the same fully and at large, as if they were here particularly repeated, and you were thereunto particularly Interrogated.

Title

Title to Depositions.

DEPOSITIONS of Witnesses taken at B. in the County of S. at the House of W. W. commonly called or known by the Name or Sign of the White-Hart, on Thursday the 10th day of August, by virtue of a Commission issuing out of their Majesties High Court of Chancery, to us directed, for the Examination of Witnesses in a Cause there depending, between A. B. Complainant, and C. D. Defendant, on the behalf of the Plaintiff.

Notice of taking an Answer in the Country, by virtue of a *Dedimus Potestatem.*

WHereas we have received a Commission issuing forth of the High Court of Chancery, to us and others directed, to take the Answers, Pleas or Demurrers of Dame E. M. and others, Defendants to the Bill of Complaint of E. S. A. F. and J. G. Gent. Complainants. These are to give you notice, that we intend to execute the said Commission on the, &c. at 8. of the Clock in the morning, at the House of, &c. At which time and place you with your Commissioners may be present if you please. Given under our Hands the, &c.

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THE TABLE.

Additional Bills.

I **T**HE Lady Stawel Widow, Dowager
and Administratrix of John Lord Sta-
wel, intituled to a Portion of 10000 l. to be
raised out of a Term of ninety nine years, out
of divers (of her Fathers, the late Earl of Salis-
bury's) Manors and Lands, becoming payable
to her before her Marriage, of which she received
only 254 l. And afterwards Inter-marrying with
the said Lord Stawel, who, by Marriage Agree-
ment was to settle on her an Annuity of 1500 l.
per annum, to be issuing out of his real Estate,
to commence immediately after his Decease, in
lieu and recompence of Dower; and part of her
Fathers, the Earl of Salisbury's Estate, being
vested in Trustees, by Act of Parliament, to be
sold, for payment of the said Ladies, and other
younger Childrens Portions; and the said Trustees
having sold the same, and appointed the Sum
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The Table.

of 5277 l. 10 s. to be paid by the Purchaser, as part of the said Ladies Portion (but forbid by her Trustees to be paid to the Lord Stawel, before he made such Marriage Settlement, and the Lord Stawel dying before he performed the same, and) C. S. one of the Defendants pretending an Assignment of the said 5277 l. 10 s. from the Lord Stawel, in his life-time: The Lady Dowager Exhibits this Bill against the Purchaser, and Trustees for her share of the Purchase-Mony, and against C. S. the Assignee; as also against the Trustees of her Fathers Will, for the residue of her Portion unpaid, That they may account with her, and that the Mony payable by the Purchaser and Trustees may be paid unto her in her own Right. 52

2. The Plaintiff being Purchaser of an Estate of the late Earl of Salisbury, by Act of Parliament vested in Trustees to be sold, and part of the Purchase-Mony being appointed by the said Trustees to be paid to the Lord Stawel, who dying, the Mony unpaid, and the Lady Margaret his Widow and Administratrix demanding the same by Exhibiting her Bill in this Court; and also one S. a Goldsmith, Exhibiting his Bill against this Complainant for the same Mony, as assigned to him by the Lord Stawel in his life-time. The said Complainant exhibits this Bill, That the Lady Stawel and the said Goldsmith may interplead and proceed to a determination of their Properties in the said Mony, and that he the said Complainant may bring his Mony into Court, or be otherwise indemnified against both their claims and pretences; and makes Affidavit at the bottom of the Bill, that

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that he exhibits the same voluntarily, at his own Costs, and not at the Persuasion or Costs of either Party Defendant. 76

3. The Plaintiff being a Goldsmith, and having lent 4000 l. to John Lord Stawel, on Assignment of his share of the Purchase-Mony of part of the Earl of Salisbury's (his Father in Laws) Estate, vested in Trustees by Act of Parliament to be sold; and the Lord Stawel dying before payment, and the Lady Dowager his Widow and Administratrix claiming the same, and the Purchaser keeping the Mony in his hands; this Complainant therefore exhibits his Bill for relief in the Premises against the said Lady Dowager Stawel and the Purchaser. 81

4. The Plaintiff being possessed of a Lease for ninety nine Years, determinable upon three Lives, Mortgageth the same to T.C. who, by the Plaintiffs consent Mortgageth the said Premises to the Defendant (being by Indenture of Agreement to re-convey to the Plaintiff, upon payment of a Sum of Mony) and the Defendant having entered and received the Profits to satisfy the Mortgage-mony and Interest, with an over-plus; the Plaintiff exhibits this Bill to compel him to re-convey and account. 92

5. The Plaintiffs are Executors to K.N. Widow, deceased, to whom there being the arrears of an Annuity due at the time of her death, chargable upon the Defendants Sir A. N.'s Lands, by virtue of an Indenture of Grant made by Sir J.N. (Sir A. N.'s Father) and the said Sir A. for the Life of K.N. and her Husband; and Sir J.N. making some Settlement afterwards upon L. N.

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his younger Son, chargeth upon it 10*l.* per annum, part of the said Annuity; and K. N. having Arrested the said Sir A. N. for the said Annuity, and he having entred into Bond for payment of the same, and the said Bond being left in the hands of K. N.'s Attorney, who dies, and the said Bond being supposed to come to the Defendants Sir A. N.'s hands, and he having exhibited his Bill in this Court against the said L. N. and the surviving Executor of Sir J. N. and there being a Decree for L. N. to pay the 10*l.* per annum (part of the Annuity of 30*l.* per annum) and the whole arrears of the Annuity due at the death of K. N. being 270*l.* and upwards; the Plaintiffs exhibit this their Bill for the said arrears. 97

6. The Complainants Brother M. M. being indebted to him by Bond and otherwise, in several great Sums of mony, and likewise to J. M. the Complainants other Brother at the time of his death, who, by a Nuncupative Will made the Complainant his Executor, and being prevailed upon by his Brother M. M. not to prove the said Nuncupative Will: J. M. the Defendant (Son of M. M.) after his Fathers death, being Executor and Heir to his Father, takes out also Letters of Administration of his Uncles Estate; and his Father having given by his Will several Lands to the Complainant, and the Reversion of an Inn, and 200*l.* in mony; and the Defendant, after his Fathers death, altering the Will by adding a Codicil, and razing and blotting the Bequests of the Lands to the Complainant, yet so, as with great difficulty, the same might be read; and tearing and cancel-
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ling a Bond of his Fathers, which was shewed to him by his Uncle, without paying one peny of the Debt. The Complainant exhibits this Bill to be paid his Fathers and Uncles Debts out of the Estate, and to examine his Witnesses, and to prove the Defendants Fathers Will in this Court, as it was made by the Testator without alterations.

113

7. The Company of Stationers having Letters Patents granted to them by several Kings and Queens of England, for the sole Printing and Vending Psalms, Primmers, Almanacks, &c. And by Letters Patents from King James the first, confirming the said Letters Patents from other his Predecessors, giving the said Corporation also power to make By-Laws, who, by virtue thereof, by a By-Law, settled and limitted 200 l. per annum, out of the profits of Primmers, Almanacks, &c. for relief of poor Widows and Orphans of their Corporation; and the Defendant (being an Haberdasher, and no Member of the said Corporation) Printing, Importing and Selling great numbers of Primmers, Almanacks, &c. The Complainants exhibit their Bill for discovery.

125

8. The Complainant being by Articles of Agreement, to pay 800 l. as a Marriage Portion with his Daughter to the Husbands Father, and the Father being thereby obliged to charge Lands of the yearly value of 300 l. with an Annuity of 150 l. per annum, during the lives of Husband and Wife, and 100 l. per annum for the Wifes Joynture (in case she survives her Husband) And the Defendant leaving out of the Settlement, part of the Lands to the va-

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lue of 200 l. per annum, and refusing to Convey the Lands unsetled, according to the Articles of Agreement: the Complainant Exhibits this Bill to compel the Defendant to settle the same.

140

9. R. S. (the Complainants Wifes former Husband) having received 60 l. of the Defendant S. S. her mony, (being her share of 300 l. given to her and five other Brothers and Sisters, by King Charles the Second) and the said R. S. having also given Bond to T. N. (another Defendant, Trustee for the said S. S. to pay the same to her at the Age of 21 Years or day of Marriage: and the said R. S. having laid out in Maintinance, Education and putting the said S. S. out Apprentice to a Sempstres, above 60 l. He dyed, and the Complainant S. took out Letters of Administration of his Estate, but finding the same not sufficient to satisfie his Creditors, gave it amongst them, who made not above 9 s. in the pound of it; then the Complainants Inter-marry, and the said S. S. after she had attained the Age of 21 Years, intermarries with one T. J. who is since dead; and both the said S. when she was sole, and her Husband and she after Marriage, being sensible of what Monies had been expended on her account by the said R. S. often declared, That they would never desire a Penny of the mony upon the said Bond, nor consent the same should be put in Suit, but promised to procure it to be delivered up to be cancelled; and because the Defendant R. N. (the Trustee) brought an Action at Law upon the said Bond, against the Complainant S. and her now Husband (whom she inter-married with since

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since her Administration,) The Complainants exhibit this their Bill for relief, and to have the Bond delivered up. 156

10. The Complainant having 70 l. due to him; (part of 300 l. agreed to be paid him as his Wifes Portion by her Father, and in arrear at his death) and also share of an Estate in right of his Wife, left her by her Fathers Will, who made his Wife Executrix thereof, and she neither paying the remaining part of the Complainants Wifes Portion, nor making a dividend of the Estate in her life-time, but dying, and making two Executors, and the Defendant being the surviving Executor, the Complainant thereupon exhibits this his Bill against him for the same. 163

11. A Bill for discovery of a Bond lost. 171

Answers.

1. **T**HE joynt and several Answers of J. W. Senior (a Trustee for younger Children) and J. W. Junior, (Husband of E. the Complainants Sister) to the Bill of Complaint of W. H. an Infant, by T. C. Gentleman, his next Friend and Guardian, Complainant. 411

See the other Trustees Plea in Bar to the said Bill before. 401

2. The Defendants Answer to a Bill exhibited against her for setting up a false Will. 424

3. Two Infants by their Guardian exhibit a Bill against the Executors of the Testator their Father, one of which Executors dies, and the

The Table.

- surviving Executor Answers the Bill.* 433
4. *The several Answer of Daniel Witherley Esq; Defendant to the Bill of Complaint of the Right Honourable George Lord Jefferies, Baron of Wem, Complainant, which Bill prays relief against a Statute-Staple or Recognisance entred into by the Complainant to the Defendant, for the securing part of the Purchase-mony upon Sale of an Estate by the Defendant to the Complainant.* 453
5. *The several Answer of Sir E. D. Knight, one of the Defendants to the Bill of Complaint of the Right Honourable Margaret Lady Stawel, Widow of the Right Honourable John Lord Stawel, deceased.* 554
- And the said Defendants farther Answer to the same Bill.* 559
- The Answer of C. S. and E. S. Esquires, two of the Defendants to the Bill of Complaint of the Right Honourable Margaret Lady Stawel, Complainant.* 567
6. *The Answer of the Right Honourable Margaret Lady Stawel, one of the Defendants to the Bill of Complaint of C. S. Esquire, Complainant.* 586
7. *The several Answer of Sir E. D. Knight, one of the Defendants to the Bill of Complaint of C. H. Complainant.* 600

Answers, Pleas and Demurrers.

1. **T**HE Defendant being a Trustee for younger Children, Pleads in Bar (to the Heirs Bill to account and discover) a former Decree of

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of this Court, and two Reports of the Master before whom his Accounts were Stated and Reported, and confirmed by Decree of this Court.

401

2. The Defendant Pleads several Outlawries after Judgment to the Complainants Bill 416

3. The Defendant as Heir at Law, pleads in bar to the Complainants Bill, a Deed of Purchase by his Father, in Fee-simple from one E. G. and a Fine, with Proclamations duly levied, and that his Father being so seized, made a Joynture of the Premises to the Defendants Mother (with Remainders over) who enjoyed the same for her Life; after whose death the Lands in question descended to this Defendant as Heir at Law, by virtue of the said Deed of Settlement, and that his Title is under a Purchaser for a valuable consideration, and paramount that Title the Complainant makes by his Bill. 419

4. The Defendant Pleads the Statute of Limitations in bar to the Bill the Complainant hath exhibited against him for Fees. 421

5. The Defendant pleads to a former Bill depending for the same matters, in Bar to the Complainants Bill. 450

6. The Defendant Answers as to part, Pleads a Purchase for a valuable Consideration to other part of the matters in the Bill, and disclaims as to the residue. 451

7. The Defendant Pleads several Conveyances, Fines, and a Decree of this Court in Bar to the Complainants Bill 496

8. The Defendant Pleads a Verdict and Judgment thereupon, not undone by Attaint or Error, and

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and the Statute of 4 H. 4. in Bar to the Complainants Bill, the Scope whereof is for the Complainant to be relieved against an Action at Law, brought by the Defendant for Fees due to him for managing several Law Suits for the Complainant, and for monies laid out and expended by the Defendant for the Complainant in managing the same. 514

9. The Defendants plead a Purchase in Fee-simple, for a valuable Consideration in money truly paid, of the Manors, Lands and Tenements in the Bill mentioned, unto one G. T. and his Heirs, in Trust for the Defendant E. C. and her Heirs, by Deeds of Lease and Release, and an Assignment of an Extent upon a Statute of 1000 l. unto her to secure and protect the Premises from Incumbrances. And that she this Defendant E. at the time of such Purchase and Assignment made to her, nor at any time before, had not any notice of the Complainants Annuity of 50 l. per annum, or the Statute in the Bill mentioned, for securing thereof. And all the Defendants by Answer deny all combination by the Bill charged, and justify detaining the Evidences, and refuse to discover them to the Complainant, and justify the keeping possession of the Premises, under the Purchase of the said E. C. 516

10. The Defendant Answers to part, and to the residue of the matters in the Bill, he pleads the Statute of Limitations. 520

11. The Defendants for Plea to so much of the Complainants Bill as seeks to draw in question the Defendants Title to a Farm in the Bill mentioned, or to compel them to discover the date and contents of their Lease thereof, or to de-

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deliver to the Complainant an authentick Copy of the same, pleads a Lease made unto the Defendant E. by her Father, who was Grandfather to the Complainant. With their Answer to the Residue. 524

12. The Defendant Pleads a Fine and Recovery, with Non-claim, in bar to the Complainants Bill. 537

13. The Defendant pleads a Fine from his Grandfather of part of the Premisses, and purchase of other part, and quiet enjoyment by his Father and Brother, and he in the fourth descent from his Grandfather, and no claim made by the Complainant, or his Ancestors 540

14. The Defendant pleads the Statute against Frauds and Perjuries in bar to the Complainants Bill 545

15. The Defendants for Plea alledge cause for not setting forth the Decree and Dismission truly, but alledging new and foreign matters, not in the Decree, and praying process generally to Answer, and not to Review. For Demurrer say, there are no Errors in Law in the Body of the Decree or Dismission, not any new Matter in the Bill of Review, nor any Order for bringing the same, nor Allegations and Averments therein set forth, sufficient Causes for Reviewing or reversing a Decree. 547

16. The Defendant pleads, That the Complainant took out Letters of Administration in the Prerogative Court of the Province of York, to entitle him to Sue the Defendant in this Court, for a Debt due to the Intestate, which accrued in the Province of Canterbury, where this Defendant

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dent hath always lived, and therefore Erroneous

17. The Defendant by his Guardian pleads, That the Complainant is and stands Outlawed in the Court of Common-Pleas, and therefore ought not by the Rules of this Court, receive any Answer to his Bill, until the same be reversed.

18. The Defendant pleads a General Release in bar to the matters contained in the Plaintiffs Bill.

19. The Complainant exhibiting his Bill for redemption of Lands therein mentioned, and to have an Account of the Profits thereof: The Defendant pleads in bar thereto, setting forth the Original Lease, his assignment thereof to the Complainant, and the Complainants Mortgage thereof to one A. D. a Widow, her assignment of the same (with the Complainants consent) to J. C. (subject to Redemption) by the Complainant J. C. his assignment to J. P. upon condition to re-assign to J. C. upon payment, &c. J. P. and the Complainants assignment to T. C. with condition to re-convey to the Complainant on payment, &c. T. C. his assignment of the Premises to the Defendant, by the Complainants consent, (except a certain small Close.) The Defendants Indenture of Defeazance to the Complainant; the Complainants failure of payment, the Defendants entry on the Premises, and afterwards an Indorsement on the Deed of Defeazance, releasing the Covenants therein, and the Equity of Redemption thereupon, with an other Indenture of assignment from the Complainant and T. C. to the Defendant of the Close excepted. The Defendant also by way of

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Answer denies all combination, sets forth the value of the Lands in question, and that he claims Title thereunto as a Purchaser for a valuable consideration.

604

20. *The Defendant for Plea unto that part of the Bill which prays an Account and Relief against him, sets forth a General Release of the Complainant; and to the residue of the Bill Answers, positively denying that he did get the said Release by any indirect means into his hands, &c.*

633

21. *The Defendant pleads a Verdict at Law to part of the Complainants Bill, and demurs to the other part, for that there is no ground or foundation of Equity for the Complainant to make a Decree; and that if he was surprized at his Tryal at Common Law, he ought to move for Redress in the same Court; and for that A. Wife of J. H. one of the Lessors is not made a Party to the Bill.*

635

22. *The Defendants demur to part of the Complainants Bill, for that there is no ground of Equity in his Bill, and that he hath remedy at Law for the same matters: And answereth the other part.*

613

23. *The Defendants plead in bar to part of the Complainants Bill to compel them to discover their Titles, That the Complainant hath conveyed the Premises in question to another person, who defended an Action in Ejectment brought of the said Lands by one of the Defendants; and to another part of the said Bill, in which by the Complainants own shewing, he was under Age at the time of entring into the Articles of Agreement; they demur, for that the same are*
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void in Law, and cannot bind the Complainant or his Heirs. 620

24. The Defendant demurs, for that the Complainant pretending a Title to the Lands in question, for a term of years, doth not set forth the Lessors Title, Seisin or Estate; and that claiming under a pretended Will, doth not shew, That the Will was proved before a competent Ordinary; and that suing for Mesn Profits, he doth not set forth, That the Defendant or any other under him entred on the Premisses. And that the Bill being to be relieved upon a pretended Lease for Years, made by one J. F. deceased, against a former Lease of Mortgage, he doth not set forth the certainty or nature of the Mortgage, nor the Sum of Mony secured, or the Lands to be redeemed. 626

25. The Defendant demurs, for that the Complainant as Administratrix of R. C. with his Will annexed, of the Goods and Chattels unadministred, by his Executors named in the Bill, seeks relief touching a Lease for twenty one years, of a Messuage and certain Lands, supposed to be demised by Sir E. F. to the said R. by Indenture dated the 1st of June, 17 Car. I. for the said Term, to commence from the death of one E. M. in the Bill named, then Tenant in possession of the premisses, and to charge the Lands with 400 l. and Interest, alledged to have been the Consideration paid for the said Term, or to be answered out of the Profits for twenty one years; the said Defendantt shewing for causes of his Demurrer, That it appears by the Complainants own shewing, That E. M. dyed in 1648. and that the said term of twenty one years expired

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pired in 1669. and therefore inasmuch as the Land was not nor is chargable with or lyable to the Plaintiffs demands, either in Law or Equity, after the expiration of the said Lease, nor is the Defendant, for ought appears by the said Bill, any ways answerable or accountable in Equity, for any profits of the Premisses, taken during the said term of twenty one years, and therefore 'tis reasonable to presume that the Lease was surrendered to the Executors of R. C. it appearing of the Plaintiffs own shewing, that the same came to the hands of W. F. and A. F. in the Bill named, or one of them, who then claimed to have an Estate and Interest in the Premisses, and entred and took the profits thereof; and forasmuch as a demand of this nature, especially after so great a length of time, ought not to be countenanced in this Court, and for that the Bill contains no Equity against this Defendant.

630

26. The Plaintiffs, Executors of K. N. exhibiting their Bill for arrears of an Annuity due to the Testatrix at her death, and to have the Defendants Sir A. N. and L. N. pay it with damages and costs, and alledging that Sir A. N. gave Bond or Covenants to K. N. in her lifetime for 180l. arrears of the Annuity which is come to the Defendant Sir A. N.'s hands, and detained by him; and that afterwards Sir A. exhibited his Bill against the Testatrix, the surviving Executor of Sir J. N. and L. N. to be relieved against the Rent and Arrears, and to place the same on the Executor and L. N. The Defendant Sir A. N. demurs, and for causes sheweth, That the Bill contains no Equity to ground
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any Decree upon, not only for that the Plaintiffs of their own shewing, have the Grant which created the Rent-Charge, and nothing hinders them from suing at Law; and for that the Plaintiffs have not made the usual Oath, That there was such Bond or Covenant, and that they know not what is become of the same; but also for that it doth not appear by the Bill, that the Court made any Decree against the Defendant for the said Annuity or Arrears, or that any Decree was made for the benefit of K. N.

643

27. E. N. one of the Defendants to the Bill last above mentioned, demurs to part of the same, and for causes sheweth, That if the Decree sit forth therein be such as the said K. could recover any thing upon, against this Defendant, the Complainants ought to have sought their remedy on the same by Scire Facias, and no other course, they claiming in privity as her Executors; but if they could not recover that way, they ought to do it by Law or no other way, the Consideration for the said Grant being not otherwise than for natural love and affection, or something else not valuable, which is in no case ever aided by this Court; nor ought the Complainants to have any Answer or discovery to that part of their Bill which seeks to know, whether there was any such Grant of the Annuity, and Bond, or Covenant for securing the arrears thereof, or what is become of the same, for that they have not made the usual Oath, That there was such Bond or Covenant, and that they know not what is become of the same, therefore, and for that though it appears of the Complainants own shewing,

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ing, that J. N. one of the said Sir J.'s Executors is dead, and that A. N. his Relict is Executrix, but not made a Defendant, who, or one of whom, may have paid his Arrears of the Annuity, and by Answer might have set forth as much, which would have been a good discharge to this Defendant. To the other part of the Bill, this Defendant pleads, That Sir J. N. having power to charge his whole Estate with 4000 l. and to dispose of the Fee of two Tenements called R. and S. worth 120 l. per annum, did by Deed Indented, dated the 13th of October 21 Car. II. settle the same upon five Trustees and the Plaintiff J. R. thereby declaring the said 4000 l. and the two Tenements should be subject to the payment of all his debts, whereof (if that which the Plaintiff claims be a just Debt) the same is Sir J.'s. and none else, and comes in with that Trust, the said Sir A. never having had any Consideration for joyning with his father for securing the same. The said Sir J. did also by his last Will recite his power touching the said 4000 l. and appoint the same should be paid to his Executors J. his Grandson and W. his Son, subject to his Debts, and gave the Fee of the two Tenements to the said J. who dying, they descended to A. N. his Brother, who likewise dying they came to J. N. one of the Trustees. And the said W. N. is Executor of the said A. and A. N. Executrix of the said J. N. one of Sir J. N.'s Executors, and Devisee of the two Tenements: Neither the said J. N. the Heir of A. and J. the Devisee, nor the said A. the said J. the Devisee's Executrix, nor the said W. qua-

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tenus Devisee of the two Tenements, by A. his Will, being made Defendants, who might have paid the Arrears claimed by the Plaintiffs, or otherwise be released or discharged of the same. And to the residue the Defendant answering, denies that Sir A. ever held any Estate of Sir J. upon Trust to pay his Debts to her knowledge; denies all Combination, &c. Confesses Sir A. is dead, and that she is his Executrix, and Sir F. N. his Heir. 648

28. The Defendant demurs to the Complainants Bill, because it was dated and filed the 20th of November then last past, and directed to Anthony Earl of Shaftsbury, then Lord Chancellor of England, at which time, and some days before, Sir Heneage Finch was appointed Lord Keeper of the Great Seal of England, and thereby the Power and Authority of the said Earl as Lord Chancellor did cease and determine, so that the Complainants Bill, as being directed to his said Lordship, was so filed and exhibited *comam non Judice*, and his Lordship had then no power or authority to hold Plea, or take any Judicial Cognizance of any Suit in this Court. 656

29. The Defendant Answers to part and demurs to other part of the Complainants Bill brought against him for Fees, being under 10 l. and therefore beneath the Dignity of this Court to take Cognizance of. 657

30. The Defendant demurs to the Complainants Bill, for that no Bill of Review ought to be admitted to alter a Decree for Errors in Law appearing in the Body of the Decree, as it is drawn up and inrolled, or of new mat-
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ters arising after the Decree, or of such matter of which the Complainant could have notice at the time of the Decree. And for causes of demurrer shews, That the pretence of the Bill of Review for assigning Errors in the Decree, being for decreeing for the Defendant against the Complainant on his own Bill, and pretending abatement of the Suit before the Decree past, are only formal Exceptions, and as for the pretence of miscasting, if any such be, the same is amendable by motion; and for that the Bill of Review contains in it no Equity. 661

31. The Defendant demurs to the Complainants Replication because it departs from the Bill. 663

32. The Defendant demurs to the special matter of the Complainants Replication, and shews for Cause, that the same is not only a departure from, but is contrary to the Repliants Bill. 665

33. Demurrer for not setting forth a Will, and making Oath of the loss of a Bond. 664

34. The Defendant demurs to the Complainants Bill, and shews for cause, That there is not any error or matter in the Law appearing in the body of the said Decree, or sufficiently shewed or suggested by the Bill, for which the Decree or an thing thereby decreed ought to be reversed, set aside, impeached or altered; Nor is there any new matter set forth sufficient for reviewing or reversing the same; Nor doth it appear by the Bill, that the Plaintiffs have obtained any Order or leave of the Court for bringing a Bill of Review upon new matter, as by the Rules of this Court they ought to have had; And for that the Decree hath not been nor is performed by the Complainants, who
Y y 2 ought

The Table.

ought by the usual course and rules of this Court, fully to have performed the same, before they be admitted to a Bill of Review; and for that the Complainant E. hath not given any Recognizance to pay Costs, as by the course of the Court be ought. 666

35. The Defendants demur, for that the Bill contains several and distinct charges for several and distinct matters, against several and distinct Defendants, which have not any relation or reference the one with the other, whereby the same is drawn to a great and unnecessary length of above one hundred and twenty sheets of Paper, and these Defendants although but very little concerned therein, are thereby enforced to take out a Copy thereof, and if they shall be enforced to answer thereto, they must (if the Cause descends to issue) be put to unnecessary Charge and Expence in taking out the Copies of the Pleadings and Proofs which shall happen in the Cause, which concern the other Defendants, and whereto these Defendants have no relation, nor are any way pretended or supposed by the Bill to be concerned, which is against the constant practice of this Court, and (if admitted) would prove to these Defendants extraordinary charge and vexation 668

36. The Defendants Answer to part of the Complainants Bill, and to other part thereof they demur, for that the Bill being in length above ninety sheets of Paper, is exhibited against these Defendants and above seventy other persons, many of them concerned only as Tenants, some others as Purchasers for a valuable Consideration, divers others as Agents, Attornies and Solicitors, who

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who have been employed in the defence of several Actions at Common Law, and Suits in this Court, heretofore prosecuted concerning the Lands now in question; Which Bill, for the causes aforesaid, is very insufficient, and ought not to be answered unto, for that it contains several and distinct charges against the several Defendants, which have not relation or coherence the one with the other, by which means it is drawn to a great and unnecessary length, as against these Defendants, who are charged only with a Combination amongst the others, and yet must be forced to be put to unnecessary charge and vexation, if they should be compelled to Answer this Bill, which is contrary to the Practice of this Court. And the principal Equity the Complainants pretend is want of Writings, yet have not made Oath of the loss thereof, nor made to themselves any good Title, nor doth the Bill contain any Equity whereupon to ground a Decree as against these Defendants. 670

37. The Defendant having entered into a Statute of 1200 l. to pay the Complainant 600 l. within three Months after the death of his Father, to whom he was Heir, for 50 l. in Money and 150 l. in Goods; and having received 300 l. and exhibiting his Bill for Relief against a Lease pretended to be fraudulently obtained, and to have the other 300 l. The Defendants demur, and for cause of Demurrer shew, That it was a corrupt Bargain, and that the Bill contains in it not any manner of Equity. 674

38. The Complainant by his Bill seeking aid of this Court, for Examination of Witnesses to prove a Paper pretended to be a Lunaticks Will

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before his Lunacy, and to have the direction of this Court; The Defendant demurs, and for Causes sheweth, That the Lunatick may dye or have lucid Intervals to revoke the said pretended Will, and for that it cannot be his Will during his Life, and because the Committee of the Lunatick is not made a Defendant, nor will the Court make Evidence where there is no Evidence at Law. 676

39. A Demurrer to a Bill brought after the aid of this Court, and liberty granted to proceed at Law to recover the Penalty of a Judgment. 679

40. A Demurrer to a Bill brought against above fifty Defendants, charged with several and distinct charges, not having any dependance one upon another, and all for Tythes pretended to be severally due to the Complainant as Rector or Vicar of, &c. for which he supposeth this Defendant, with the others, hath made a promise, That in consideration the Complainant would forbear to prosecute them at Law for the same, they would respectively pay him the several Monies in the Bill mentioned, pretending also that he hath no remedy at Law to compel them to perform the Agreement, being made in private, having no Witnesses to prove it, nor no remedy by the Ecclesiastical Law, nor proof at Common Law, his Witnesses being dead, or living in remote places, and for avoiding multiplicity of Suits, prays the aid of this Court. To which the Defendant demurs, and shews for causes, That if the Complainant hath right to the Tythes or Composition in the Bill, either he hath remedy at Law, and so needs not the aid of this Court, or if he hath

no

The Table.

no remedy at Law, then there is no ground or consideration for the Promise or Composition in the Bill, and for that it is improbable that a promise so lately made by so many Parishioners, the Witnesses should be all dead or gone away in so short a time, the Complainant having forborn Suit but from the day of, &c. on which the Promise is supposed to be made, whereby it appears that he endeavours rather to make than avoid multiplicity of Suits. 681

41. The Complainant by his Bill seeking relief in this Court, for a pretended Portion in right of one A. therein named, whom he thereby pretends to be his lawful Wife, and in whose right he demands the same; The Defendants plead, that they are informed, That the said A. is sole and unmarried, and not Wife to the Complainant, as in his Bill is pretended, and never was coupled to him in lawful Matrimony; and they are induced to believe the same, for that the said A. doth not live and cohabit with the Complainant, nor acknowledge the said pretended Marriage, but that some words were unduly and unjustly extorted from her by force, which she doth not remember, and hopes they were not binding to her, therefore demand Judgment of this Court, whether the Complainant shall be admitted to question the Defendants for the pretended Portion of the said A. before he shall first prove himself to be her lawful Husband. 683

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Bankrupts.

1. **A**N Affidavit upon a Petition and Commission on the Statutes against Bankrupts, to be Sworn before a Master in Chancery. 1
2. The Bond to be entred into to the Lord Chancellor or Lord Keeper for the time being, upon suing out the Commission on the Statutes against Bankrupts. 2
3. A Bill preferred to the Lord Keeper to pray a Commission on the Statutes against Bankrupts. 3
4. The Form of their Majesties Commission upon the Statutes of 13 El. 1 Jac. and 21 Jac. against Bankrupts. 5
5. The Form of the Oath to be administred to Witnesses, upon their Examination touching the Bankrupts Trade or Profession, his absconding, and other acts by which he may be discovered to be a Bankrupt, also concerning his Estate Real and Personal, Debts, Duties, Frauds, Concealments, and other Matters in obedience to their Majesties Commission, and pursuant to the several Statutes made against Bankrupts. 7
6. The Form of the Oath to be administred to Witnesses for proving the Debts due to them by the Bankrupt. 8
7. The Form of the Warrant for summoning the Witnesses to appear before the Commissioners at a certain time and place, to answer such Questions and Interrogatories as shall be demanded of and ad-

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administred to them concerning the Bankrupts Estate. ibid.

8. *The Form of an Abstract of the said Warrant, to be left in Writing with every such Witnesses.* 10

9. *The Form of the Warrant signed by the Commissioners to Commit any person to Gaol who shall refuse to be Sworn and Answer to the interrogatories administred to him by the said Commissioners.* ibid.

10. *The Form of the Proclamation to be made in their Majesties Names, for the Bankrupt to render his Body before the Commissioners.* 12

11. *A Bill to supersede a Commission granted against a Salesman, upon the Statutes against Bankrupts, for that his Debts (amounting to no more than fifty pounds) are not within the true meaning of any of the said Statutes.* 13

Charitable Uses.

EXceptions to a Decree made on an Inquisition mentioned therein, taken by Commissioners, pursuant to the Statute of 43 Eliz. concerning Charitable Uses. 1. For that the Decree is founded upon a Suggestion, That the Exceptants (with others since dead) did misemploy in general, certain Monies received by them, on account of the Donors Charity, without assigning in particular wherein or for what. 2. For that this last Decree is as well contradictory to the Donors Will, as to a Decree made

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made concerning his Charity thereby given, the 20th of January, 1640. 3. For that the Exceptants are falsely charged by the last Decree, with having several Sums of Money in their Hands, arising from the Revenue of the Donors Charity, whenas they have laid out all but nineteen pounds, &c. according to the direction of the Decree made in 1640. 4. For that the last Decree is mentioned to be made at C. in Jan. 1693. by seven persons, one of whom was not present, nor none of the Commissioners, that by the body of the Decree is mentioned to make the same, or to joyn in the making thereof; and that others of the said Commissioners who were present at the bearing and debating of the matters on which the said Decree was made, did refuse to joyn in the making of the same. 25, 28,

30, 31, 32.

The Respondents Answer to the said Exceptions. To the first, That the Exceptants having been heard by themselves and Council, both by the Commissioners and the Jurors touching the Premises, and the Jurors having found the matter as aforesaid, the Commissioners had just cause to make such Decree, and that the same is, for so much as is decreed, well made and grounded, without setting forth the particulars wherein or whereby the said Mis-employment was made, otherwise than as aforesaid. And the inquisition being taken upon such Proceedings as are requisite in such cases, viz. upon Oath of the Jurors, who, after hearing the Evidence on both sides, did find (upon view of the Exceptants Books, and consideration had of the Items therein,) That the Trust was apparent-ly

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ly broken, and that the Feoffees had mis-employed seventy pounds contrary to the Donors intent, and that they had let the Estate at four pounds per annum less than the value, and had besides in their Hands nineteen pounds, &c. such Inquisition was, and is a sufficient ground or warrant for such Decree to charge the Exceptants, who, if they can justifie their Employing the Monies by them received, to be disbursed according to the Denors Intent, they may thereby make a sufficient defence, and free and acquit themselves, but not otherwise. 37

As to the second Exception, the Respondent believes, that before the year 1640. great abuses and mis-employment had been touching the Charity, and a Decree made about that time concerning the same, but delivered into this Court without Commission, and Exceptions then taken to it, and filed, but proceeded no farther, nor since performed, as he believes; but it was ordered therein, That whensoever the greater part of the Feoffees are dead, those who survive shall make new Feoffments of the Lands to two such persons as they shall chuse, who shall Enfeoff such others as shall be named by the Vicar and Chaunter, appointed by the Will; But the Decree is mis-recited, for it doth not Decree that the old Feoffees when their number was reduced to five, should make a new Feoffment and not before, but that the Commissioners for Charitable Uses or this Court, may, upon good reason, either for breach of Trust, or negligence of Feoffees in a Charity, or mis-employment thereof, order new Feoffees, and a new Feoffment to be made, and the Commissioners in the Decree
against

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against the Exceptants, have accordingly done the same, upon very good Reasons, pursuant to the Donors Will, and the Charity intended, &c.

42

In Answer to the third Exception, The Respondent maintains the Charge against the Exceptants, as appearing by the Inquisition and Decree, that they have mis-employed seventy pounds of the Charity Money, which they ought to be charged with, as if they had the same in their Hands: And as to their pretence, That they have laid out the same in manner as all their Predecessors have done, it can be no justification for them to follow an Example in breach of Trust and Mis-employment, which, if admitted, would let in a colour to destroy all Charities, and frustrate the intent of all Donors as to the same.

46

As to the fourth Exception, The Respondent takes it to be frivolous, it not being material whether all the Commissioners did sign the Decree, or were present at the place or time when or where it was signed; it being lawful for them to sign and seal the same, at any other day after, or other place, if satisfied in the truth and justice thereof.

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Demurrers, see Answers, Pleas
and Demurrers.

Exceptions to Decrees, see Charitable Uses.

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Depositions.

D*epositions, their Title.*

720

Exceptions to Answers.

THE scope of the Bill is to set aside a fraudulent Will put up by the Defendant, and to have a particular Account of the several Estates of J. J. and R. J. deceased, the Complainant being intituled to the same as the nearest Relation of the whole Blood, and Heir at Law to the said R. J.

686

To which Bill the Defendant hath put in an evasive and insufficient Answer, not giving any particular Account of either of the Estates of J. J. and R. J. as the Bill requires, but insists upon a pretended Title to the same, by virtue of a fraudulent Will, pretended to be made by R. J. in her life-time, which the Plaintiff avers and is ready to prove, was surreptitiously obtained, illegally executed, and unduly proved, with an intent to defraud him of R. J.'s Estate, for which reason the Plaintiff Excepts against the said Answer as insufficient in the points following.

First, For that the Defendant pretends her self a Relation of R. J. her Mistress, without setting forth her Pedigree and nearness of Blood, or how otherwise related to her.

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Secondly, She doth not set forth whether R. J. did not make her last Will in writing and the Plaintiff her Executor thereof; and, at the same time, as a Token of her kindness, give him her Husbands Watch. To which she makes no Answer, but believes R. J. might give the Plaintiff an old Watch worth 15 s. but saith not upon what account, nor whether the same was R. J.'s Husbands Watch. ibid.

Thirdly, The Defendant doth not set forth how she obtained her fraudulent Will to be executed by R. J. and who were the advisers therein. 688

Fourthly, The Defendant hath not set forth what Gold, Silver, Plate, Rings, Jewels, Bills, Bonds, Leases, Mortgages, Judgments, Extents, Household-Goods, &c. the said R. J. dyed possessed of, with the true values of the same, and annexed a Schedule to her Answer of the Particulars thereof, as the Bill requires. ibid.

2. The scope of the Bill is to have a discovery of the whole Estate J. S. dyed possessed of, with the particulars and true values, and wherein they consisted, and to compel the Defendant to pay a Debt of twenty five pounds and Interest due upon Bond to one J. C. deceased, to whom the Plaintiff is Administratrix, and to Answer all other the matters in the Bill charged 689

To which the Defendant Answers, That he believes the Plaintiff is Administratrix to J. C. but knows it not of his own knowledge, nor that J. B. did make application to borrow twenty five pounds of J. C. or that there was any application made to J. C. by A. B. and J. S. on

The Table.

on the behalf of J. B. or that J. C. did lend to B. B. and S. twenty five pounds, or that there was any Bond entred into by B. B. and S. to C. for twenty five p. , or any other Sum; but believes B. B. and S. are all dead, but knows not that B. and B. dyed intestate. Denies that he is either Executor or Administrator to B. and B. or either of them, or that either of their Estates came to his Hands; but confesseth, that in August 1675. J. S. made his last Will in writing, and the Defendant Executor, and soon after dyed, which he proved, and possessed himself of the whole personal Estate of J. S. which was not near sufficient to pay and discharge his Funeral Expences and Debts upon Bonds and Judgments, and sets forth a particular of S. his Estate, in a Schedule, evasively, and without the values of certain Leases for term of years, &c. *ibid.* 690

To which the Plaintiff excepts, First, for that the Defendant confesseth a Lease from Sir W. J. to S. for twenty one years, at seventy two pounds per annum, whercof ten years and a half were to come at his death, but sets not forth where the Estate lies, nor the Rent reserved, nor the Tenants Names that have been in possession since S. his death. 691

Secondly, for that the Defendant confesseth, that there came to his hands a Lease from one P. to S. (to whom the Defendant is Executor) but saith not whether the same was of Houses or Lands, nor where the same lies, nor the Tenants names that are or were in possession of the same at the time of S. his death, nor the term of years were then or still is to come in the same, only

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only says, that the same was a rack Rent, which is altogether evasive, insomuch that the Plaintiffs cannot by any means inquire into or find out the the true value of the same, &c. *ibid.*

Thirdly, For that the Defendant confesseth, that there came to his hands a Lease granted from Sir N. C. at a Rack Rent, which expired the Christmas after S. his death, but saith not whether the same were of Houses or Land, nor where the same lies, nor the Tenants Names in possession at the time of S. his death, nor what Rent was then in arrears or owing by such Tenants, &c. 692

3. The end of the Bill is to be relieved against a pretended Settlement set up by the Defendant against the Plaintiffs, who are Mortgagees of the Defendants Husband for 1200 l. principal Mony, lent upon the Manor of H. and divers Messuages, Lands, &c. in Ely, & Com. Cantabr.

And the Plaintiffs by their Bill particularly charge, That the Defendant E. (and T. her Daughter) give out, that upon her Marriage all the said Manor, Lands, &c. conveyed for the Plaintiffs Security, are settled upon Trustees for the use of the Defendant, for her Joynture, and after the decease of her and her Husband, to the Heirs Male of their Bodies, and for want of such Issue, to the use of their Heirs Female, or otherwise, for the raising of several considerable Sums of Mony, for the Portion and Maintainance of such Issue Female.

The Table.

And T. (the Defendant E.'s Daughter, and her Husbands pretended Daughter) who is endeavoured to be set up for the only Issue Female, such Daughter after the decease of the Defendant and her Husband, will be entituled to the whole Estate, or at least two or three thousand pounds, or some other great Sum must be raised thereout by the Trustees for the Portion and Maintenance of that pretended Daughter, beyond which the Estate will not suffice to secure the Plaintiffs Mortgage-Monies; When in truth, such Settlements and Incumbrances, if any, were voluntarily made and entred into, and such pretended Daughter set up by the Defendant E. and connived at by the other Defendant her Husband, to defraud the Plaintiffs of their Monies, and therefore ought to be detected and set aside, and the Plaintiffs being in nature of Purchasers for a valuable Consideration, ought in the first place, to receive their Mony lent, with Interest.

And by the Bill a discovery is prayed, whether the Manor and Premises, or some part of them, and what in particular, were not upon the Defendants Marriage settled and conveyed unto and upon some persons, and whom by name, in trust for such like uses and purposes, as before charged, and what in particular, and may set forth the dates and contents of such Conveyances or Settlements, with the Parties Names, and Witnesses, at what time, and for what Consideration the same were made and executed, and whether the Defendants have any Issue Male or Female, and where such Issue is. 692,

693, 694

Z z

To

The Table.

To which the Defendant by her Answer only saith, That before her Marriage with the other Defendant her Husband, all and singular the Lands and Premisses, in the Bill mentioned to be Mortgaged to the Plaintiffs, or a great part thereof, were (in consideration of a Marriage then to be had between the said T. T. and the Defendant E. and which afterwards took effect) settled in Joynture upon her for Life, to take effect in possession after the death of T. or the said Defendant, or some other provision is thereby made for the Issue of that Marriage.

694

Which is no sufficient Answer, for that the Defendant doth not set forth the date of such Marriage Settlement, the Witnesses Names, nor the contents thereof, nor Parties thereto, which (if she had pleaded) she must have done; nor doth she deny or set forth what Portion or Portions, or other Maintainance the Issue Female of such Marriage ought to have, or will insist upon, or what Limitations are made to Trustees in such pretended Settlement, nor the particular Lands settled in Joynture upon the Marriage. But her Answer is altogether evasive, the Plaintiffs not intending to Impeach, but discover the Defendants Title, and her Daughters Interest in the mortgaged Premisses, that they may take what prudent care is possible for the better security of their Monies, so really and bona fide lent, and therefore do except to the Answer, and pray the effect of their Bill may be answered, that they may have the end of their Suit, and such relief therein, as the nature of their Cause will admit.

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